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Joel Connelly

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LETTERS

striking the conglomerate

Newark, N. J.

DEAR SIRS: The editorial by David C. Berliner on the editorial employees' strike at the New Jersey *Newark News* [*The Nation,* Oct. 4] was too one-sided to let pass without comment. . . . Mr. Berliner . . . sought to show that the newly formed chapter of the American Newspaper Guild was being clubbed to death by the paper's new owners, Media General, Inc., of Richmond, Va. . . .

On May 26 the Guild chapter, "still toddling in its swaddling clothes," as Mr. Berliner put it, struck the prestigious *Newark News,* slightly more than a year after Media General had taken over. On the eve of the strike, however, management had submitted a proposal to avert a walkout, and agreement seemingly had been reached. . . .

Douglas Eldridge, Guild chapter chairman, was to say a few months later that: "We had a very good offer on the eve of the strike. We should have taken it; it would have saved everybody a lot of misery." Some Guild members did not know of the offer until after the strike was well under way. . . . Eventually, the Guild accepted terms less than had been previously offered by management. . . .

Mr. Berliner further alleged that the craft unions had caused the Guild to yield to company conditions. What he studiously avoids, however, is that the craft unions supported the Guild strike by refusing to cross the picket line. . . .

Shortly after the Guild's acceptance of the company's terms, Bruce Mair, president of the *Newark News,* announced the sale of its plant facilities and the Sunday edition to the rival *Newark Star-Ledger.* . . . As a result of the sale, more than 500 craft union employees lost their jobs. Thomas B. Callanan, president of Newark Typographical Union 103, also reported that more than $250,000 in annual contributions from the *Newark News* to its welfare and pension funds were lost. . . .

Alfred F. DePoto, Sunday Feature Editor
The Newark News

New York City

DEAR SIRS: Mr. DePoto implies that greedy editorial workers stabbed their new publisher in the back. He notes correctly that the Guild struck the *News* "slightly more than a year after Media General had taken over." Time enough, we think. Only total frustration and dismay turned most of the employees to the union, as he well knows.

There is no question that the crafts supported our strike —fully cognizant of Media General's antipathy toward any form of organized labor—but the point lies in the fact that they succumbed, for whatever reasons (and they are intriguing).

Mr. Eldridge's disheartened post-mortem comment (taken out of context) was nothing more than a comparison of the pre-strike offer with the eventual settlement which has no provisions for severance pay, calls for unlimited layoffs by reverse seniority, and features a pay scale worthy of a small weekly newspaper in rural Wyoming.

The *News*'s Guild unit, to my mind, wore a gigantic pair of rose-colored glasses, but to pin the loss of craft union jobs on it is ludicrous. Months before the strike began, Media General was negotiating the sale of the Sunday paper and plant to the *Star-Ledger.* . . .

David C. Berliner

Richmond, Va.

DEAR SIRS: David Berliner's editorial contained a paragraph to the effect that "heroic" typesetting efforts by wives of the publisher and the corporation president and the publisher himself, had broken a strike by union printers in Richmond, Va. . . . The strike is not broken and continues into its seventh month. Members of Richmond Typographical Union

(Continued on page 500)

EDITORIALS

Mr. Nixon Twists and Turns

The sequence of events in the admission of China to the United Nations provides a perfect example of President Nixon's ineptitude at deceit. No one is more diligent in the craft of political hornswoggling, but he goes about it in a manner so blatant that the essential element—concealment—eludes him. If he would mix in a bit of integrity now and again, he would have a better chance of getting away with it.

Nixon and Kissinger certainly knew that the admission of the People's Republic would entail, sooner or later, the ouster of Nationalist China. Over a period of years, Chou En-lai had made it perfectly clear that his China, the real China, would not settle for less. If Mr. Nixon wished to go down in history as the American President who had the wisdom to see that the representatives of a quarter of the world's population could not be kept out of the United Nations indefinitely, he had to pay the price. He must have known that when he sent Kissinger on his secret trip to Peking.

Possibly Nixon and Kissinger hoped, at that stage, that the evil day might be postponed long enough to save face. The beneficiaries of American largesse, or at least of a handout, could perhaps be persuaded that the 14 million inhabitants of the island of Taiwan were entitled to representation—as indeed they are. But everyone knew that the Taiwanese are under the heel of Chiang's army and bureaucracy, and the slaughter which accompanied his conquest of the island has not been forgotten. If, then, Nixon harbored the thought that he might save Chiang, for a space, by covering his face with a Taiwanese mask, he was only kidding himself.

When it became evident that playing the issue low key at the U.N. would not avail, Nixon instructed his ambassador, George Bush, to resort to the customary tactics of arm-twisting and blackmail. But these measures, which had worked well enough for twenty years, had lost their potency. The inexperienced Bush overestimated the support the United States could expect, and did not even anticipate that the Albanians might bring the issue to a vote on the evening of October 25.

Drawing further on his resources, Nixon gave Ronald Reagan, whose stock is at an all-time low in California, a respite from his burdens there by sending him to Tapei to reassure Chiang. Even at 84, Chiang is too astute to swallow such pap, but of course the real purpose of the mission was to soothe what remains of the China Lobby —the Committee of One Million, for instance, with 40,000 dues-paying members.

It was not enough. The domestic situation threatened to reach the flash point, with Goldwater, Dominick, Tower, et al. taking out their wrath not only on those U.N. members who had defected but on the organization itself. Goldwater was prepared to deport the U.N. to Peking or Moscow. James Buckley, the Republican-Conservative from New York, did not go that far; he just wanted to apply economic sanctions, including cuts in the budgets of the auxiliary organizations—the Children's Fund, World Health Organization, etc. He commented

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that the events of October 25 may have been "the beginning of the end of the U.N."

The right wingers refrained for the most part from openly assaulting Nixon and his sage adviser, but actually the second Kissinger visit to Peking helped to give Chiang his quietus. Carl Rowan writes, "Taiwan's diplomatic goose was cooked the moment Nixon sent Kissinger on that secret mission to Peking. . . ." It was only half-cooked then. It was thoroughly roasted by Kissinger's second trip, so neatly synchronized with the China debate in the U.N. If Nixon chose that date, he was doing Chiang in as a part of his *modus operandi*; if Chou chose the date, and Nixon acquiesced, it speaks well for the tactics of mainland diplomacy. As far as Chiang was concerned, the effect was the same.

It should be noted that the argument that "expelling" a U.N. member sets a dangerous precedent is eyewash. No one was expelled. The rightful occupant of the China seat was substituted for the U.S.-supported imposter.

With the Republican-Conservatives still crying havoc, Nixon had to take further measures. When the final vote was announced, the Albanians—those arch-conspirators—behaved with dignity, but some of the delegates of small countries were openly jubilant. A few are said to have danced in the aisles. Instead of excusing this exultation as exuberance after long frustration, Mr. Nixon saw another opportunity to placate his right-wing supporters. Speaking through his mouthpiece, Ron Ziegler, the President expressed his shock, dismay and disgust at the bad behavior of those delegates who showed their pleasure at Uncle Sam's largely self-inflicted discomfiture. He did not denounce the vote itself—how could he, with Kissinger in Peking? But to the extent possible, we have the spectacle of the President of the United States in the role of a proctor at a boys' school.

If punishment is actually imposed on the U.N., Mr. Nixon will be partly responsible. He insists on his faith in the world body, while making it a scapegoat—a typical Nixon performance. It may have been the best he could do in an awkward situation, but it is a safe prediction that it will not restore the love and esteem in which he was held by those who were largely responsible for raising him to power on the basis of his eternal, irreconcilable anti-communism. They didn't know their Dick.

Surprise Politics in Reverse

President Nixon prides himself on springing political surprises on the country, usually via television, but the defeat of the foreign aid bill surprised him. It even shook the members of the loose coalition that did the deed—if you can call it a coalition: Senators voted from widely differing motivations, but the result was decisive: 41 opposed, 27 in favor.

In part, it was one of those political accidents. The bill came to a vote only a few days after the debacle in the U.N., and enraged hawks vented their feelings on the "do-gooder" features of foreign aid. Voting with them were liberals who had never been happy with a measure that laid more stress on military hardware than on constructive aid; and, overlapping them were doves who could not stomach $347 million for Cambodia, along

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with other military handouts for the Greek and Pakistani dictatorships. Underlying all this was the legislators' awareness that, with $413 billion expended since the start of the Marshall Plan, foreign aid has never been popular at the grass roots. With each year, it has become more difficult to get the bill through Congress. One of the arguments for this Administration's version, in the President's 1969-70 message, was that his recommendation was the lowest proposed since the program's inception.

Yet, despite the elements of coincidence and diverse opposition, the defeat will mark a corner turned in U.S. foreign policy—unless, as is improbable, enough Senators cave in under Administration pressure or otherwise lose their nerve. There will be no burst of outrage from constituents, such as marked the conviction of Lieutenant Calley. On the contrary, the mail is likely to oppose continuation of foreign aid in the hodgepodge form in which it has been brought up in the Congress year after year. What is productive in the concept should be sifted out from the militaristic elements that have always predominated. Foreign aid should not be a congeries of bribes and imperialistic inducements. It should show the United States in the light of its best instincts, and not be a combination of the downright evil, the neutral and the constructive.

The defeat of the Administration has shifted the Congressional balance of power. Whereas Senator Fulbright and his colleagues formerly bleated futilely against abuses perpetuated under the general heading of foreign aid, they now find themselves on top. The Administration must come to terms with them for an extension of foreign aid, shorn of its objectionable features. The whole concept of bilateral agreements may be discarded. Foreign aid may be revived through an international body, such as the World Bank, with safeguards against its use as an instrument of American hegemony.

In the November *Harper's,* Leslie H. Gelb and Morton H. Halperin write, "Most of our world problems require a steady, nondramatic diplomacy, and a steady, nondramatic flow of information to the American people. These are the ways to build public understanding and support, and they are the acid tests of successful policy abroad as well." Every word of that applies to foreign aid, and its future divorcement—if all goes well—from dependence on the cold war.

Fear of Freedom

Last July President Nixon, in Executive Order 11605, gave the all but moribund Subversive Activities Control Board new powers. On petition of the Attorney General, the Board can now "conduct appropriate hearings to determine whether any organization is totalitarian, Fascist, Communist, subversive, or whether it has adopted a policy of unlawfully advocating the commission of acts of force or violence to deny others their rights under the Constitution or laws of the United States or of any State, or which seeks to overthrow the government of the United States or any State or subdivision thereof by unlawful means."

That considerable mouthful of inelegant prose means that the SACB, whose unsavory history needs no present restatement and which last year was noteworthy for doing almost nothing, has suddenly been empowered to inquire into *any* group in the United States, whether or not a member of that group seeks government employment or is now working for the government. The board will have custody of the Attorney General's list of "bad-guy" groups, a list that has recently fallen into relative desuetude but is now apparently to have a renascence.

The President justified this extraordinary action by citing several sections of Title 5 of the United States Code, not one of which is relevant, and by making a ritualistic bow to a finding that the action is necessary "in the best interests of national security."

So far he has gotten away with it. But he has angered Sen. Sam Ervin (D., N.C.), who convened hearings of his Subcommittee on Separation of Powers on October 5 to consider his bill (S. 2466) to make it unlawful for the executive to carry out the order and to cut off funds for its implementation. Ervin also introduced Senate Resolution 163, which, if passed, calls upon the President to revoke the order or to make it conform to Article I and the First Amendment of the Constitution. In a blistering opening statement, Ervin maintained that the order (*a*) usurped Congress' power to legislate; (*b*) put a chilling effect on the exercise of the rights of expression and of association protected by the First Amendment; and (*c*) was so broad that any combination of two or more persons could fall within its net.

Asst. Atty. Gen. William Rehnquist, Mr. Nixon's Supreme Court nominee, and SACB Chairman John Mahan gave to the subcommittee puny statements in defense of the order. Rehnquist completely ignored the First Amendment argument; he "justified" the allocation of new powers in a statement of 5 double-spaced typed pages, maintaining that it was a valid subdelegation of powers given the President by Congress. Possibly he convinced himself, but few others were impressed. Only Sen. Edward Gurney (R., Fla.) defended the order. In the hearings, Mahan called the board "an independent quasi-judicial agency," a statement that backfired when both he and Rehnquist were asked to justify Presidential powers over independent agencies.

The White House may have picked a loser. The case for the order is as weak as, or weaker than, Rehnquist and Mahan showed in their testimony. Recent Supreme Court decisions had almost eliminated board functions, with the result that the five members draw $36,000 a year for doing next to nothing (they held *five* days of hearings in 1970). One would like to think that Nixon merely wanted to make sure that Mahan and his colleagues earned their salaries, but that is hardly the situation. It does not take a conspiratorial mind to believe that there are other, darker purposes afoot, purposes that will not surface until the controversy dies down (assuming that Ervin loses). With the President now packing the Supreme Court, putting the SACB back in business may mean that the order will be upheld by the "strict constructionists." Serious-minded people believe that the Executive Order is part of a move to stifle dissent in the country—this time by hitting at the thousands of voluntary associations. (The Administration is also, according to a report by Joseph Young of the Washington *Star,* drafting regulations for the automatic firing of all federal employees who be-

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long to any organization the government deems "subversive" or "revolutionary-terrorist." Present legal safeguards would be swept away for both "sensitive" and "nonsensitive" jobs, and the worker would be dismissed on the utterly vague charge that his continued employment "would not promote the efficiency of the service.")

In larger context, the Executive Order should be viewed as an aspect of the burgeoning of executive power—seen, to cite but a few examples, in the assertion of an "inherent" right to wire tap in domestic security matters, in the impoundment of more than $12 billion in appropriated funds by the Office of Management and Budget, in the refusal of officials from the executive branch to testify before Congress or to produce documents, and in the misuse last December of the President's pocket-veto power. Congress has gone along with much of this—as it did when it passed that complete giveaway of legislative power, the Economic Stabilization Act of 1970, under which the Administration's new economic program is promulgated. It is past time for Congress to call a halt to the further aggrandizement of Presidential power; and Executive Order 11605 furnishes an excellent opportunity to make a start in that direction.

A Case to Watch

On April 1, 1970 Mr. Nixon signed the law which bans radio and television advertising of cigarettes. Six radio stations have brought suit, contending that the ban is unconstitutional. Recently a three-judge panel (District Judges Oliver Gasch and June L. Green, and J. Skelly Wright of the Court of Appeals), upheld the legislation in a 2-to-1 ruling. To Judges Gasch and Green, advertising is not entitled to the full protection of the First Amendment. They found, moreover, that there was more than one "rational basis" for discrimination against the electronic media (a ground which they cited as "rational" was that broadcasts are the "most persuasive" form of advertising). The six radio stations, they pointed out, had lost no right to speak; they had "only lost an ability to collect revenue from others for broadcasting their commercial message." On the other hand, Judge Wright, in a vigorous dissent, pointed out that what Congress had done was to suppress "the ventilation of these issues on the country's most pervasive communication vehicle." Judge Wright may perhaps have failed to meet the point here, since discussion of the issues is presumably not banned. However, he went on to say that "Overwhelming evidence makes plain that the Salem girl was in fact a seductive merchant of death—that the real Marlboro Country is the graveyard. But the First Amendment does not protect only speech that is healthy or harmless."

Without arguing the merits of the two opinions—the case will be appealed—it is clear that a precedent of major importance is in the making. Not only does the case involve the reasonableness of the distinction made between the electronic and the printed media—the legislation shifted some $250 million in cigarette advertising from the one to the other—but it raises the exceedingly troublesome question of the extent to which advertising is or may be protected by the First Amendment. If it is fully protected, as Judge Wright's opinion seems to imply, then advertisers may have a legally enforceable "right of access" to the media which the "fairness" doctrine, as applied to advertising, more or less concedes now. On the other hand, if "harmful" product advertising can be banned, how far does the concept of "harmful" extend? Cigarettes, it will be said, constitute a special case; but special cases have a habit of developing into larger categories. And underlying such issues is the basic question of just how the media are to be sustained. The majority opinion rather cavalierly notes that all the radio stations lost was "an ability to collect revenue," but when did that cease to be an important consideration? Isn't there a danger that the media are being held accountable for a standard which cannot be met as long as they remain almost entirely dependent on advertising as a source of revenue? The decision on the ban of cigarette advertising in the electronic media raises critically important issues affecting the future freedom of the press.

Nixon's Accomplice

Sen. Henry Jackson is scheduled to make formal announcement of his candidacy on November 16. The Jackson candidacy is to be taken quite seriously; he has strong labor and business backing and is the sole "hawk" among active Democratic contenders. His announcement will be privately cheered by President Nixon who has long been one of his admirers and backers. Jackson was the President's first choice for Secretary of Defense and may also have been offered the post of Secretary of State (see article p. 490 this issue).

When he came up for re-election in 1970, Jackson had in effect lost control of the Democratic organization in Washington and faced serious disaffection within the party [see "Rebellion in Washington" by Bernard Weiner, *The Nation*, August 31, 1970]. Gov. Daniel Evans, a liberal Republican with strong party backing in the state, would have made an ideal Republican nominee, since he would also have drawn the votes of many independents and Democrats who had come to dislike Jackson. But Nixon saw to it that he did not enter the race. In addition, GOP financial backers contributed heavily to Jackson's campaign at the suggestion of Republican Party officials, and the organization nominated a nonentity who was, if anything, more hawkish than Jackson.

While there is of course no alliance or "understanding" between Nixon and Jackson, still the latter's nomination would insure a walkout of many McGovern, Harris, Lindsay, McCarthy, and even Muskie delegates at Miami. Even those delegates who would not be prepared to leave the Democratic Party would, in sizable numbers, refuse to support Jackson. As a matter of fact Jackson is well aware of this possibility but seems to regard these elements as constituting a negligible minority, whose departure would benefit the party. He talks, at times, as though he were eager to drive them out—the Democratic "Left," whatever that means, not the Nixon Administration, is his prime target. But he could be quite mistaken concerning the dimensions of the dissent from his "cold-war" stance within the party today. There is good reason to believe that it has grown since

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1968, when it was large enough to cause Humphrey's defeat. Like Norman Podhoretz, editor of *Commentary* (interview *Los Angeles Times,* October 26), Jackson seems to fear a "Left insurgency" within the Democratic Party more than he fears a Republican triumph. Just as certainly as Jackson's nomination would set the stage for a walkout at Miami, so his nomination would insure the re-election of Richard Nixon.

Jackson may run into serious trouble in the March 14th primary in Florida. Should George Wallace enter that primary, he would cut heavily into the Jackson vote. And Jackson's managers concede that he must win in Florida if he is to remain in the race.

It is also possible that Mr. Nixon may be faced with the defection of right-wing conservatives, who are exploring, even now, the possibility of initiating some form of political opposition to his candidacy in the Northeastern states. It is a comment on the realism and sophistication of these elements—and their naive leaders, the Buckley boys—that they have just discovered that Nixon is not entirely trustworthy. At the moment, the "conservatives," so-called, find themselves in the embarrassing position of being disenchanted with Nixon, the peerless anti-Communist leader of yesteryear, while at the same time they are unwilling to join forces with George Wallace. The Alabamian is much too vulgar and earthy for their taste. This Chiang Kai-shek contingent in the GOP is not numerous but it commands money and could cause Nixon distress in a few states. Both Nixon and Jackson may have underestimated what Ted Lewis of the New York *Daily News* has referred to as "the dimensions of dissent against the [political] system" which at present exists in both parties.

Brushoff

We report the following postscript to the security hysteria attendant upon Mr. Nixon's appearance at the Billy Graham Day ceremonies in Charlotte, N.C. [see editorial, "Nursing Nixon"; *The Nation*, November 8], principally because, in the words of Gov. Bob Scott of North Carolina, it was "overdone—in fact, ridiculous," and laughs are a little hard to come by these days.

Governor Scott, according to a UPI story, was perhaps the most eminent victim of the excessive zeal of the Secret Service. It began before Mr. Nixon had even landed at the airport. The Governor was also arriving by air, and received a radio message from an FAA official at the airport that, if he couldn't get in fifteen minutes before the President's scheduled time of arrival, he wouldn't be allowed to land. Scott replied that he thought a Governor should be permitted to land without hindrance in an airport of his own state, and was told that if he did so his pilot's license would be lifted. "Good," he said, "I'll give him another job." He added that, if he got mad enough, he could order highway crews to put up construction blocks on every highway leading into town.

After the ceremonies at the Coliseum, Governor Scott attempted to leave the building and enter his waiting limousine. He was held within until the President had made a safe escape. Not being a man to hold grudges, Scott went out to the airport at the end of the Presidential visit to give Mr. Nixon a farewell handshake. Twice he stuck out his hand; twice a Secret Service blocking tackle tipped him aside. The Governor, a Democrat, summed it up: "To tell you the truth, I didn't get the feeling that it was a very nonpartisan affair."

EXECUTIVE SHELL GAME

HIDING BILLIONS FROM CONGRESS

LOUIS FISHER
Mr. Fisher is the author of President and Congress: Power and Policy, *to be published by the Free Press in January.*

According to the Budget and Accounting Procedures Act of 1950, it is the policy of Congress that the accounting of the government provide "full disclosure of the results of financial operations, adequate financial information needed in the management of operations and the formulation and execution of the Budget, and effective control over income, expenditures, funds, property, and other assets." Despite that general policy, it has been estimated that, in a budget for fiscal 1972 of $229.2 billion, secret funds may amount to $15 billion to $20 billion.

The financing of the war in Vietnam illustrates how billions can be spent for programs known to relatively few Congressmen. In September 1966, President Johnson expressed his "deep admiration as well as that of the American people for the action recently taken by the Philippines to send a civic action group of 2,000 men to assist the Vietnamese in resisting aggression and rebuilding their country." Other announcements from the White House created the impression that not only the Philippines but Thailand, South Korea, and other members of the "Free World Forces" had volunteered troops.

However, hearings held by the Symington subcommittee in 1969 and 1970 revealed that the United States had offered sizable subsidies to countries that involved themselves in Vietnam. It was learned that the Philippines had received river patrol craft, engineering equipment, a special overseas allowance for its soldiers sent to Vietnam, and additional equipment to strengthen Filipino forces at home. It cost the United States $38.8 million to send one Filipino construction battalion to Vietnam. Senator Fulbright said that as he saw it, "all we did was go over and hire their soldiers in order to support our then administration's view that so many people were in sympathy with our war in Vietnam."

The Philippine Government denied that U.S. contributions represented a subsidy or a fee in return for the sending of the construction battalion, but an investigation

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Mr. Fisher's article is the second of three which *The Nation* is running this fall on the elusive ways whereby accounts are kept, and expenses budgeted, by the federal government. "Military Budget: Double-Talk Bookkeeping" by Richard F. Kaufman appeared in the issue of November 1; an article by Sen. Frank Church on the executive's power to impound funds authorized by the Congress will be published soon.

by the General Accounting Office confirmed that *"quid pro quo* assistance" had indeed been given. Moreover, there was evidence that the Johnson administration had increased other forms of military and economic aid to the Philippines in exchange for its commitment of a battalion to Vietnam.

The Symington subcommittee also uncovered an agreement that the Johnson administration had made with the Royal Thai Government, back in 1967, to cover any additional costs connected with the sending of Thai soldiers to Vietnam. The State Department estimated that U.S. support to Thai forces—including payment of overseas allowances—came to approximately $200 million. A number of other expenses were also involved, such as modernization of Thai forces and the development of an anti-aircraft Hawk battery in Thailand. The Foreign Ministry of Thailand denied that the United States had offered payments to induce Thailand to send armed forces to Vietnam, but GAO investigators revealed that U.S. funds had been used for such purposes as the training of Thai troops, payment of overseas allowances, and payment of separation bonuses to Thai soldiers who had served in Vietnam. An interim GAO report estimated that the U.S. Government had invested "probably more than $260 million in equipment, allowances, subsistence, construction, military sales concessions, and other support to the Thais for their contribution under the Free World Military Assistance program to Vietnam."

U.S. subsidies were used once again to facilitate the sending of South Korean forces to Vietnam. Assistance included equipment to modernize Korean forces at home, equipment and all additional costs to cover the deployment of Korean troops in Vietnam, additional loans from the Agency for International Development, and increased ammunition and communications facilities in Korea. To assure that the dispatch of men to Vietnam would not weaken the defensive capabilities of the Republic of Korea, the Johnson administration agreed to finance the training of forces to replace those deployed in Vietnam and to improve South Korea's anti-infiltration capability. From fiscal 1965 to fiscal 1970, Korea's military presence in Vietnam was estimated to have cost the United States $927.5 million.

The legal basis for this assistance to free world forces in Vietnam derives from authorization and appropriation statutes of 1966. Funds were made available to support Vietnamese "and other free world forces in Vietnam, and related costs . . . on such terms and conditions as the Secretary of Defense may determine." In 1967 assistance was broadened to include local forces in Laos and Thailand. Reports on such expenditures were submitted only to the Armed Services and Appropriations Committees of each house. One would not know from the general language of the statutes what type of financial arrangement the Administration might enter into, or with what country. Even staff people who had access to the reports said that they did not know the nature and dimension of financing the free world forces until hearings were held by the Symington subcommittee.

Legislation in 1969 and 1970 tightened up the language of the statutes somewhat by placing a ceiling on the funds that could be given to free world forces. Standards were also established for payments of overseas allowances. The "ceiling" of $2.5 billion exceeded the amounts spent in previous years, and did not constitute much of a restriction. The fiscal 1970 appropriation bill for the Defense Department included a proviso stating that nothing in the Act should be construed as authorizing the use of funds "to support Vietnamese or other free world forces in actions designed to provide military support and assistance" to the governments of Cambodia and Laos. The force of that restriction was diluted by another provision which declared that nothing in the Act should be construed "to prohibit support of actions required to insure the safe and orderly withdrawal or disengagement of U.S. Forces from Southeast Asia, or to aid in the release of Americans held as prisoners of war." On February 8, 1971, after the United States had granted support to South Vietnam's intervention in Laos, the State Department justified the U.S. support partly on the ground that it "will protect American lives."

Presidential spending discretion has been used in the last two years to spread the costs of the Vietnamese War to Cambodia and Laos. It was by exercising his transfer authority that President Nixon could extend financial assistance to Cambodia after his intervention there in the spring of 1970. At the end of the year, he appealed to Congress for $255 million in military and economic assistance for Cambodia. Of that amount, $100 million was to restore funds which the President had *already* diverted to Cambodia from other programs. Under Section 610 of the Foreign Assistance Act, the President may transfer up to 10 per cent of the funds of one program to another, provided that the second program is not increased by more than 20 per cent. Taking advantage of that authority, the Nixon Administration borrowed $40 million from aid programs originally scheduled for Greece, Turkey and Taiwan; took another $50 million from funds that had been assigned largely to Vietnam; and diverted still other funds, until a total of $108.9 million in military assistance had been given, or committed, to Cambodia.

In the waning days of the 91st Congress, legislators attempted to place two restrictions on Presidential actions in Cambodia. The Special Foreign Assistance Act of 1971 barred the use of funds to finance the introduction of U.S. ground troops into Cambodia, or to provide U.S. advisers to Cambodian forces in Cambodia. But in its bombing operations in Cambodia, and in its subsequent "incursion" into Laos, the Administration interpreted air power in such broad terms as to circumvent much of the legislative restrictions. When helicopter gun ships can patrol at

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treetop level, the distinction between "air power" and "ground troops" begins to disappear.

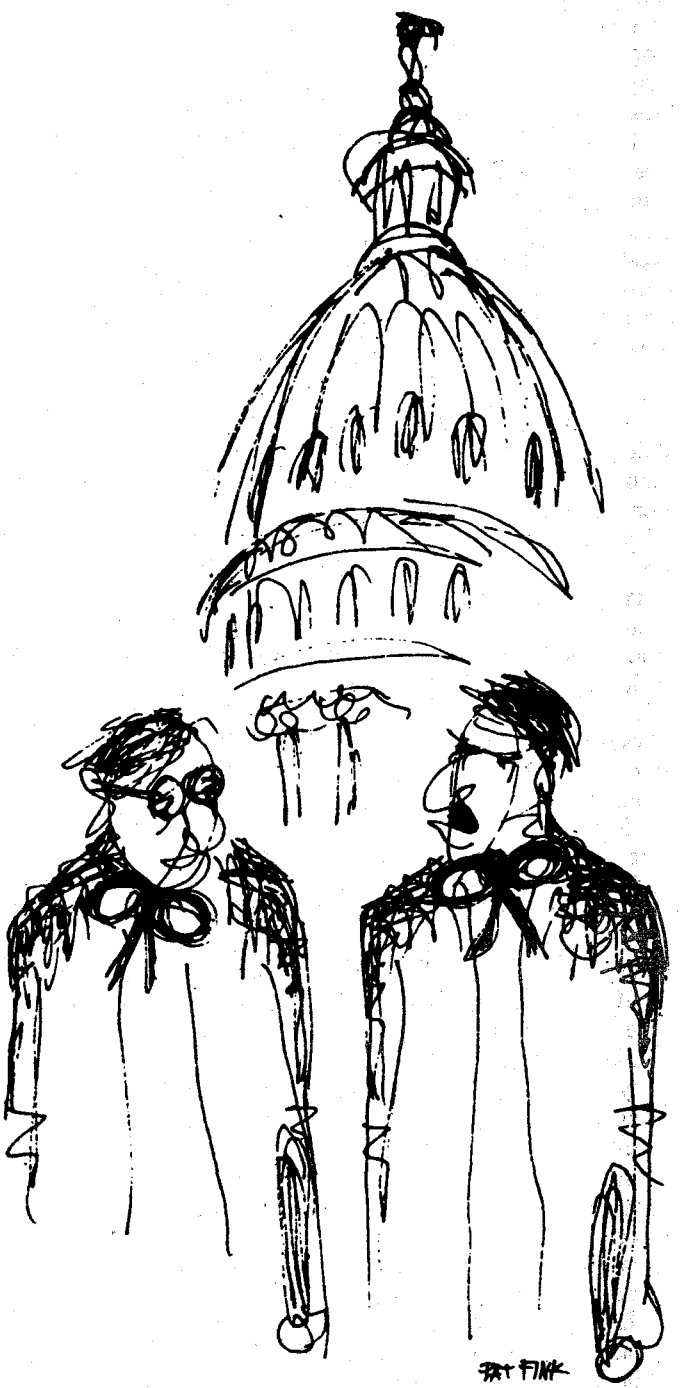
The Special Foreign Assistance Act of 1971 also stipulated that military and economic assistance to Cambodia "shall not be construed as a commitment by the United States to Cambodia for its defense." This amounted to whistling in the dark, for it is clear that a commitment has nonetheless been made. As Secretary Rogers explained to the Senate Foreign Relations Committee, on December 10, 1970: "I think it is true that when we ask for military assistance and economic assistance for Cambodia we do certainly take on some obligation for some continuity." In an interview with Henry Bradsher of the Washington *Evening Star,* the Cambodian Foreign Minister said that he felt there was an unwritten treaty between the two countries: "I am convinced that there really is a moral obligation of the United States to help. We are confident that the United States will continue to help us."

The extent of this support was indicated in October 1971, when the Senate debated an amendment to the Foreign Assistance Act which would limit the total authorization to Cambodia to $200 million. The Administration opposed the restriction, contending that it would threaten the capacity of the Cambodian Government to defend itself. John N. Irwin III, Acting Secretary of State, offered Senator Fulbright this appraisal in a letter dated October 13, 1971: "We believe that with continued United States assistance at the levels requested by the Administration, the Cambodians with some external logistics and maintenance support will continue to make progress in defending their country from foreign invasion."

Thus our commitment is twofold: continued U.S. assistance and "some external logistics and maintenance support." Contemporary regulations on unauthorized commitments are explicit. The U.S. Code contains the following admonition: "No officer or employee of the United States shall make or authorize an obligation under any appropriation or fund in excess of the amount available therein; nor shall any such officer or employee involve the Government in any contract or other obligation, for the payment of money for any purpose, in advance of appropriations made for such purpose, unless such contract or obligation is authorized by law" [31 USC 665(a)]. Despite that rigorous language, the Administration can present Congress with a *fait accompli* and in effect compel it to appropriate the necessary funds.

Covert financing has also been used to support, through the CIA, such diverse activities as military operations in Laos and the broadcasting of U.S. information to Eastern Europe and Russia. The CIA can do this because of extraordinary authority over the transfer and application of funds. Section 10(b) of the Central Intelligence Act of 1949 provides that the sums made available to the CIA "may be expended without regard to the provisions of law and regulations relating to the expenditure of Government funds. . . ." For objects of a confidential nature, such expenditures are accounted for solely on the certificate of the CIA director, with each certificate deemed a sufficient voucher for the amount certified. Section 6(a) of the Act authorizes the CIA to transfer to and receive from other government agencies "such sums as may be approved by the Bureau of the Budget" for the performance of any functions or activities authorized by the National Security Act of 1947. Other government agencies are authorized to transfer to or receive from the CIA such sums "without regard to any provisions of law limiting or prohibiting transfers between appropriations."

During February 1967 it was reported in the press that the CIA had been secretly subsidizing religious organizations, student groups, labor unions, universities and private foundations. President Johnson appointed a three-member committee, headed by Under Secretary of State Katzenbach, to review the relationships between the CIA and private American voluntary organizations. On March 29 the committee reported that covert CIA assistance had



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been made available by the last four administrations, dating back to October 1951. The committee recommended that "No federal agency shall provide any covert financial assistance or support, direct or indirect, to any of the nation's educational or private voluntary organizations." President Johnson accepted the committee's statement of policy and directed all agencies of the government to implement it fully.

A footnote to the committee's report explained that its statement of policy did not entirely close the door to covert financing of private voluntary organizations. Exceptions might be necessary: "where the security of the nation may be at stake, it is impossible for this committee to state categorically now that there will never be a contingency in which overriding national security interests may require an exception—nor would it be credible to enunciate a policy which purported to do so."

The CIA continued to finance the broadcasting that had been conducted by Radio Free Europe to Eastern Europe and by Radio Liberty to Soviet Russia. The continuation could have been justified either on the ground of national security or by identifying RFE and RL as foreign-based institutions as distinct from "any of the nation's educational or private voluntary organizations." The latter had been the thrust of the Katzenbach report.

In an address delivered in January, Senator Case said that several hundred million dollars had been expended from CIA budgets over the previous two decades for RFE and RL broadcasting. He introduced a bill to require that future financing of the two stations be subject to annual authorizations passed by Congress. President Nixon recommended in May 1971 that Congress create a tax-exempt nonprofit corporation to finance and supervise the two stations. The Senate Foreign Relations Committee rejected the President's recommendation. The full Senate, on August 2, upheld the committee. If the House goes along with this position, covert financing will be replaced by an open budget procedure of annual authorizations and appropriations for Radio Free Europe and Radio Liberty.

Senator Case, who sits on both the Appropriations and the Foreign Relations Committees, apparently had to rely on an article in *The Christian Science Monitor* to learn that the Administration had agreed to finance Thai troops in Laos. Further investigation by Senate staff members disclosed that the CIA was covertly financing 4,800 Thai troops fighting in northern Laos in support of the Laotian Government. The cost of the operation was initially estimated at between $10 million to $30 million a year. A staff report prepared for the Senate Foreign Relations Committee later disclosed that the CIA had spent at least $70 million in Laos during fiscal 1971.

In a letter to Secretary Rogers, Case asked whether the Administration considered the financial support of Thai troops in Laos to be in accord with the Cooper-Church provisions in the 1970 Defense Appropriations Act, which banned the payment of mercenaries except to protect a safe and orderly American withdrawal from Southeast Asia or to aid in the release of United States prisoners. The State Department replied that "nothing is being done that is not within present legislative authority."

Senator McGovern introduced a bill last July 7 to require that proposed appropriations, estimated expenditures and appropriations for the CIA shall appear in the budget as a single item. His bill would also prohibit the use of funds appropriated to other departments or agencies from being spent by the CIA. McGovern explained that a single sum in the budget would permit members of Congress to judge whether that amount was too small, too large, or fully adequate to meet the needs of intelligence gathering. It would, in short, enable Congress to do what it is supposed to do: decide priorities. Moreover, Congress and the taxpayer would know for the first time the exact amount of money going into other government programs. The current practice is to inflate certain agency and departmental budgets in order to conceal CIA money. "As a result," McGovern observed, "we are led to believe that some programs are better financed than, in fact, they are. We have no way of knowing what these programs and agencies might be."

On the basis of a GAO report, Sen. Edward Kennedy charged that money appropriated for refugee programs, for public health, agriculture, economic and technical projects, and for the "Food for Peace" program, had been diverted to pay for CIA-directed paramilitary operations in Laos. During hearings held in January, the Joint Economic Committee noted that nearly $700 million in Food for Peace funds, over the past six years, has been channeled into military assistance programs. Since 1954, when Public Law 480 was enacted, $1.6 billion of funds generated by Food for Peace have been allocated to military assistance.

Statutory authority exists for this purpose, but few members of Congress were aware that Food for Peace was such a capacious vehicle for military assistance. Nor could they have gained that understanding by reading the budget, which describes Food for Peace in these terms: "The United States donates and sells agricultural commodities on favorable terms to friendly nations under the Agricultural Trade Development and Assistance Act (Public Law 480). This program combats hunger and malnutrition, promotes economic growth in developing nations, and develops and expands export markets for U.S. commodities."

Senator Proxmire castigated this use of rhetoric to conceal the nature of the Food for Peace program. "This seems to me," he said, "to be kind of an Orwellian perversion of the language; food for peace could be called food for war." He joined with Senators Humphrey, McGovern and Mansfield in introducing S.905, a bill to repeal certain provisions relating to the use of Food for Peace funds for military purposes.

No one can determine from a present-day budget how much is spent for military assistance. For instance, the budget for fiscal 1972 estimates 1971 outlays for military assistance at $1.175 billion in Defense Department funds, plus an additional $504 million in supporting assistance. The total is apparently $1.679 billion. This past January, however, Senator Proxmire obtained from the Defense Department its estimates for the military assistance program and foreign military sales. The amount of military assistance for fiscal 1971 was as follows: (*1*) $3.226 billion in MAP, military assistance service funded and related programs; (*2*) $600 million in supporting assist-

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ance; (3) $7 million in additional public safety programs; (4) $143 million in Food for Peace funds for common defense purposes; and (5) $2.339 billion in military export sales. The total: $6.315 billion.

Several months later Senator Proxmire introduced S.1129, which would remove from the Defense Department its present involvement in service-funded military aid ($2.5 billion). All remaining military assistance programs would be put under the Department of State. The effect would be to return the responsibility for authorizing military assistance funds to the Senate Foreign Relations Committee and the House Foreign Affairs Committee.

The war in Southeast Asia has emphasized the fact that, although Congress still retains the power to appropriate money, it is fast losing control over how it is spent. The executive branch—through its ability to transfer funds, impound money, create unauthorized commitments, and engage in covert financing—now holds a substantial portion of the spending power. It does no good to bemoan that fact or complain of executive usurpation. Congress will have to legislate back into reality its traditional "power of the purse." In the steel seizure case of 1952, Justice Jackson reminded Congress of the maxim, "The tools belong to the man who can use them." His parting observation then is pertinent still: "We may say that power to legislate for emergencies belongs in the hands of Congress, but only Congress itself can prevent power from slipping through its fingers." □

PHOBIAS AND NIGHTMARES

The Candidacy of Senator Jackson

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Presidential campaigns have improbable origins, and often involve unlikely candidates. As 1972 approaches, one emerging contender for Mr. Nixon's office is a man who, according to the evaluation of *Congressional Quarterly*, has supported the foreign and defense policies of the Nixon Administration almost without deviation.

Moreover this man—Sen. Henry M. Jackson, of the state of Washington—was President Nixon's first choice for Secretary of Defense three years ago and was also offered the post of Secretary of State in the Republican Administration. In the Senate, he led the fight on behalf of the President's Safeguard anti-ballistic missile system and was in wholehearted support of Nixon's Cambodia invasion in 1970.

When he sought re-election last year, Senator Jackson's campaign was supported by members of his state's Republican Finance Committee. [See "Rebellion in Washington" by Bernard Weiner, *The Nation*, August 31, 1970.] He received an estimated 200,000 Republican votes in the primary, and crushed an anti-war opponent. The staunchly Republican newspapers of the state gave Jackson unqualified endorsement, as did the leaders of major industry. In November, he rolled to victory with a record 84 per cent of the vote garnered against an opponent who had less than $50,000 to spend in a statewide campaign for the U.S. Senate.

Now when the Senator is seeking the Presidency, his favorable press coverage comes from Republican newspapers—the far-Right *Manchester Union Leader* in New Hampshire, the *Indianapolis Star* in Middle America, the *Portland Oregonian* and *Seattle Times* in the West. Pro-Nixon columnists, James Jackson Kilpatrick, Stewart Alsop, et al., praise him as a "responsible" candidate and speak of his "realistic" attitude toward the Soviet Union. The aircraft industry and transportation interests, heavy investors in the GOP Presidential campaign of 1968, have pledged the money to finance simultaneous Jackson primary races in New Hampshire and Florida.

On the stump, the Senator roundly denounces "absolutists on the Left" and "these so-called liberals who ridicule the need for law and order." In an August speech in New York, he asserted:

> There are some people in the Democratic Party who, intentionally or not, have turned their backs on the workingman. They are either indifferent to him or downright hostile. Their cocktail parties abound with snide jokes about hard-hats and ethnics. They mouth fashionable clichés about how workers have grown fat and conservative with affluence, and how their unions are reactionary or racist.

It sounds like Spiro Agnew, but if we are to believe such sources as the Evans-Novak Report and *Newsweek*, the rhetoric is gaining ground for this active candidate for the Democratic Presidential nomination. As the Senator's denunciations of "so-called liberals" continue—and other Democratic Presidential contenders will be lumped into this category—Jackson campaign manager Hyman Raskin predicts success for his man in the Florida primary. Jackson managers outline a plan which includes a sweep of the West Coast primaries that were dominated by anti-war candidates in 1968. Then, they say, labor leaders and party bosses will readily unite behind the Washington Senator. To test the waters, Jackson's fellow Senator from Washington, Warren G. Magnuson, recently visited Chicago for a talk with Mayor Richard Daley. Washington labor leaders, fresh from scouting expeditions in the East, report pro-Jackson sentiments on the part of AFL-CIO President George Meany.

Thus the Jackson campaign cannot be dismissed. Its formula for winning the Democratic nomination is to revive the old alliance of city bosses, labor chieftains and the South. This was the coalition that prevailed in 1968,

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defying the judgment of primary voters across the country as it nominated Hubert Humphrey. The party has supposedly undergone reform since, but Jackson's managers count on the continued influence of men like Daley and Meany.

Why should Henry M. Jackson appeal to them? Why would they turn to a little-known Senator from a state with but nine electoral votes? The answer lies in part with the Jackson record, and certainly has something to do with the Senator's character. Furthermore, performance and personality are unambiguous because, whatever his faults, the man has been consistent in his preoccupations and phobias.

Any review of the Jackson record must start with the issue of national security. The Senator has been obsessed with defense policy ever since he was first elected to the House of Representatives in 1940. Jackson's first issue was the Yellow Peril. In the spring of 1943, a year after Japanese-Americans had been herded into detention camps throughout the West, he declared that "Pro-Japanese influence still exists in the United States, having gone underground temporarily." Representative Jackson introduced a resolution to create a standing Congressional committee whose task would be to investigate "Japanese infiltration" into American economic, political and social life. Said Jackson: "The disciples of Bushido, by insidious and indirect means, inserted themselves in a great many organizations in much the same fashion as the Nazis have used their front organizations." On the Pacific Coast, the Congressman contended, Japanese agents controlled much of the hotel and restaurant business, using Caucasian managers to "front" for them.

With the end of World War II, Jackson turned his attentions from the Yellow Peril to the Red Threat. Jackson became a leading apostle of military preparedness and supported military containment of "the Asian brand of communism." His reputation as a defense expert helped win him the support of business leaders when Jackson successfully challenged Washington's McCarthyite Republican Sen. Harry Cain in 1952.

But Jackson also had liberal and labor support when he swam that year against the Eisenhower tide. His ability to build coalitions was dramatically demonstrated. Jackson had consistently voted with labor on domestic issues and had demonstrated an uncanny ability to win public works projects for his home district. He had also voted against initial appropriations for the House Un-American Activities Committee, depreciating the Internal Red menace even while he called for larger appropriations to thwart Soviet ambitions abroad. Thus liberals were made to feel that Jackson was a defender of individual freedom while Washington's leading industry, Boeing Aircraft, was delighted by his definition of defense needs in terms of more bombers.

Once in the Senate, Jackson quickly revealed an acute sense of which way the wind blew. Assigned to the Communist-hunting Government Operations Committee, he uttered not a word of protest against the tactics of the chairman, Sen. Joseph McCarthy, until the latter's demagogy and abuse of procedure had alienated senior Southerners in the Senate. When Louisiana's Allen Ellender and Arkansas' John McClellan had broken with the Wisconsin Senator, Jackson joined the opposition to McCarthyism. Speaking in Seattle last year, Eugene McCarthy recalled the 1954 episode as being typical of Jackson's political behavior. Said the Minnesotan: "In 1954 the Republicans had turned on Joe McCarthy after using him in the '52 elections and when the committee had turned on McCarthy and when a majority of the Senate was prepared to act on him then the record shows that Henry Jackson was against McCarthy—and he likes to act with the protection of the committee and the whole Congress."

But on defense matters Jackson's stance was unwavering. He stood for absolute military superiority over the Soviet Union, and treated each Russian weapons development as a possible prelude to his oft-predicted "nuclear Pearl Harbor." This excerpt from a 1956 speech illustrates how Jackson thinks:

> Seven years ago we had a monopoly of both atomic bombs and planes for delivering them against distant targets. Today, both monopolies are gone. Furthermore, today we cannot even be confident that we are ahead of Moscow in long-range air power.

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> Up to now we have had one reassurance. So far we have managed to win every race of discovery for crucial new weapons systems. . . . However, I believe that the Soviet Union may win the next critical race for discovery. I believe that the Soviets may win the race for the intermediate range 1,500 mile ballistic missile.
>
> The intercontinental ballistic missile is the closest thing to an "ultimate weapon" that has ever been projected. . . . A Soviet 1,500 mile missile could turn our strategic thinking upside down. It might well compel us to write off our overseas bases as virtually useless. A Russian 1,500 mile missile could force American air power to retreat 5,000 miles from the Soviet Union. . . . We and our free world partners may soon face the threat of ballistic blackmail.

Jackson's predictions were not fulfilled, but that did not deter him from predicting doom regularly during the late 1950s. The Senator also became a major critic of the defense policies of the Kennedy administration. He blasted Secretary McNamara's reliance on missile deterrents, even while complaining that the United States possessed an inadequate supply of ICBMs. When Boeing lost the controversial TFX fighter-bomber contract to General Dynamics, Jackson denounced "those civilian whiz-kids in the Pentagon" and complained of the diminishing influence of professional officers in the Defense Department.

The Senator's differences with Kennedy policies came into sharp focus during the 1963 test ban debate. A critic of the proposed treaty against nuclear testing in the atmosphere, Jackson held back until Senate ratification was assured. He then took to the Senate floor, outlining conditions under which the treaty would have to be abrogated. The emergence of China as a nuclear power, said Jackson, could well require U.S. withdrawal from the agreement. But the Senator's most chilling words came in his definition of the treaty with respect to the national interest:

> The essence of my view on this treaty, which has been referred to as a limited treaty, is that it is indeed limited. Actually it is not a treaty, but a loose commitment, a statement of present intentions of the parties not to engage in nuclear weapon test explosions in the atmosphere, in outer space, or under water. This nation's commitment will rest on the assumption that certain conditions are met—including the condition that the supreme interests of this nation are not jeopardized. Should those interests be jeopardized we shall be released from our commitment.

Jackson toned down his missile rhetoric in the mid-1960s, when a revival of the Yellow Peril came to occupy much of his time. From the beginning, he viewed U.S. involvement in the Vietnamese War as part of a larger struggle against China. Those defining the Indochina conflict as a civil war or pointing to the independent posture of North Vietnam he labeled "fuzzy thinkers who want their country to surrender."

In February 1967, the Senator denounced Robert Kennedy's proposals for a halt to the bombing of North Vietnam and negotiations with the National Liberation Front. Jackson began his anti-Kennedy Senate speech with a defense of U.S. air strikes in the North, claiming: "There is no other example in military history of bombing operations that have been conducted with equal restraint and precision."

He then discussed the role of China. "The truth is that the cold war is going on with great vigor in many parts of the world," he told colleagues.

> Indonesia, a country of 109 million, came within an eyelash of going behind the Communist curtain—not the iron curtain, the bamboo curtain—but still the Communist curtain. It was only because of our efforts in Vietnam, and other efforts that we made, that made it possible for the generals, one day in October of 1965, to make the decision they did in starting a counter-coup. . . . Think of it! This sixth most populous country in the world almost went behind the bamboo curtain.

Jackson stood behind the war policies of President Johnson and later of the Nixon Administration even as Democratic Senators scrambled to dissociate themselves from the quagmire of Southeast Asia. But by the summer of 1969, Jackson's attention had shifted back to the original Red threat. Issuing warnings of Soviet missile build-ups, he took a strong stand for the ABM and for the development and deployment of multiple independently targeted nuclear missiles. Again, those who opposed such steps as escalation of the arms race were dismissed as "unilateral disarmers." To support his arguments, Jackson leaked Pentagon statistics designed to show the perils of nondeployment of the ABM and MIRV systems. As Eugene McCarthy was later to remark, "Henry was running around the Senate floor showing secret papers to everyone. He would get angry if you asked for the source, and when you tried to get a close look he'd snatch the papers away from you. Evidently he thought we were security risks."

One may condemn such behavior as unrealistic, or perhaps conclude that Jackson is a politician who deliberately exploits fear through the invention of devil figures. But to do so is to ignore the consistency of the Senator's record. Jackson has been mouthing the same lines with the same intensity for more than thirty years, and with no regard for changing international realities. He believes absolutely in his own rhetoric, envisioning a world of aggressors and dupes who would leave the United States defenseless before them. On occasion, when carried away with his nightmare warnings, Jackson has even proclaimed himself a modern Paul Revere.

But in his case being a true believer has brought enormous political profit. Jackson's views of the Red threat closely coincide with those of George Meany, and the two men have worked closely on defense and foreign policy. The Senator's labor support has been unqualified throughout his thirty-one-year career in Congress.

Similarly, Jackson's advocacy of manned bombers and weaponry development has earned him the support of industry. He has labored on behalf of aircraft projects from the B-47 to the SST, gaining along the way the designation of "the Senator from Boeing." In return, grateful industries, including Boeing, subscribed heavily to his re-election bids in 1958, 1964 and 1970, and denied even token contributions to his Republican opponents.

No deals have been made to secure this support. One aircraft official marveled over this fact during the 1970 campaign. "The man is perfect all by himself," he said

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to a skeptical Jackson opponent. "He believes in everything we're for and would fight for it regardless of whether we helped him or not. He thinks it's for the good of the country, and when national security is at stake he's the most relentless man on the Hill."

The Senator's relations with Republican business leaders can best be illustrated from his re-election campaign last year. State GOP Chairman C. Montgomery Johnson, having realized that a race against Jackson was hopeless, but wishing nonetheless to enter a plausible candidate, budgeted $50,000 for the Senate campaign. But when Johnson sought to clear this sum with his state finance committee, the lumbermen and aircraft executives balked. "Hell, Gummie," snapped one Seattle member, "every one of us has bought a ticket to Jackson's dinner. Most of us are raising money for his campaign."

"Gummie" Johnson publicized the incident, but still did not raise his $50,000. In contrast, Jackson's glittering dinner at Seattle's Olympic Hotel attracted Washington's business leadership and brought more than $200,000 to the Senator's war chest in one night alone. His campaign won the support of such GOP stalwarts as Norton Clapp and George Weyerhaeuser, the state's leading lumber barons, as well as William Allen and William Boeing of the aircraft industry. Confident Jackson managers actually refunded small contributions in the last days of the 1970 campaign, even as they blanketed the airwaves with television spots.

The Jackson record alone did not assure this high-powered support; personality played a major role. Like Norton Clapp or William Allen, the Washington Senator is a man who, rising from humble origins, has achieved a high level of influence by hard work and diplomacy. His political dealings today are largely with similar men both in business and government. Jackson is a man of the board rooms who shares the power broker's contempt for outsiders who criticize official dogma and government policies. His attitudes are much like those of John Connally, John Mitchell and Richard Nixon himself.

Jackson's killer instinct can also be seen in past campaigns. In 1958 he was challenged in the primary by a peace candidate, Mrs. Alice Franklin Bryant, who advocated both a nuclear test ban treaty and increased reliance on the United Nations in the settling of internaional disputes. Jackson was not threatened, but he subjected his opponent to scathing attacks reminiscent of Joe McCarthy or the early Nixon. The Senator refused to face his opponent in debate or to mention her name. Instead he resorted to innuendo—"this woman who would leave us defenseless," "one of those unilateral disarmers who would leave us open to a nuclear Pearl Harbor."

In 1964, Jackson faced another futile challenge, this time from the Goldwater Republican, Lloyd Andrews. Desperate for support, Andrews charged Jackson with not working hard enough to secure the TFX contract for Boeing. The entire state of Washington chuckled at the allegation, but not an infuriated Jackson. He trotted out no less a personage than Boeing's president, William Allen, to deny the assertion.

Six years later, Jackson's opposition came from a different source, Kennedy and McCarthy Democrats. Another primary challenge was mounted, this time by Carl Maxey, a black lawyer and civil rights leader. Once more Jackson came out swinging, though he ignored at least twenty invitations to debate and never uttered the name Maxey. The challenger's supporters were referred to as "mockingbirds who want the enemy to win," "apostles of national weakness," and on one occasion as "bums." Jackson charged that Maxey, an outspoken environmentalist, was "one of these people who want to turn off technology." How Maxey proposed to do this was never explained.

Jackson's most violent denunciations were reserved for a fellow Senator, Minnesota's Eugene McCarthy. McCarthy broke a forty-year Senate tradition by campaigning in Washington against Jackson's renomination. Learning of the Minnesotan's visit, Jackson bitterly remarked, "I'm proud to say that I have now been opposed by both McCarthys." Referring to Maxey supporters as "McCarthy's crowd," Jackson once more labeled his opposition "apologists for those who want to destroy us." (This was not the first occasion on which Jackson denounced McCarthy. In a revealing remark during the spring of 1968, Jackson, an outspoken Johnson supporter, had snapped, "McCarthy just won't play by the rules, that's what I object to.")

Such innuendoes and blanket denunciations make a third party of the Left likely should Jackson receive the 1972 Democratic nomination. But to party regulars and bosses threatened by reformers from "McCarthy's crowd," the Jackson rhetoric is reassuring. When treated to recent Jackson speeches blasting "absolutists on the Left," audiences of union officials have reacted with standing ovations. And aircraft industry officials, faced with alternatives like George McGovern and Fred Harris, have dug into their pockets when told by Jackson of the danger that "these unilateral disarmers" will take control of the Democratic Party.

All these factors add up to a formidable Jackson candidacy in 1972. He will have a clear field as the most conservative Democrat seeking the nomination. He will enjoy the sympathy, if not the active support, of many who ruled the 1968 Democratic National Convention.

Jackson's power position is advantageous, but his intolerance of opposition and stress on missile omnipotence, though they help him in the board rooms, may damage the Senator on the stump. Since 1968, voters have failed to tremble at every reference to Red villainy, and suggestions of appeasement couldn't save Lyndon Johnson even in New Hampshire. Thus Jackson's Polaris submarine statistics and descriptions of ABM silos may simply bore much of the electorate and perhaps generate disgust. The Senator's belligerent manner will also be exposed, for in 1972 he will be campaigning on a stage larger than the territory covered by his protective home-state newspapers.

The first major test of the Jackson candidacy will come in Florida on March 14. His managers see the Senator's anxiety about defense and firm stand on law and order as keys to victory. They see but one major menace—George Wallace may enter the primary race. If Wallace were to enter the primary, he would, it is feared, appeal to the very constituency at which the Jackson candidacy is directed. □

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QUEBEC A YEAR LATER

CIVIL JUSTICE AND NAKED POWER

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The political relationships between the federal government in Ottawa and the Quebec provincial government are not a sensitive index of the changes wrought by the imposition, just a year ago, of war measures in Quebec and the arrest and detention of nearly 500 Quebecois without charge and without trial. At the same time, the relationship between the people of Quebec and the federal government has changed significantly. Separatists, who believe in the viability of an independent Quebec, must acknowledge that such independence will be born only in violence or by an unambiguous majority voice at the polls. Separatists and federalists alike must now acknowledge that the national government is prepared to employ raw power, by sending in the army, to quell any challenge it detects to democratically constituted government in Quebec.

Since the War Measures Act was first enacted in 1914, in a time of war emergency, it has been proclaimed again in 1939, when Canada entered World War II, and on October 16, 1970, during the so-called October crisis in Quebec. In most countries, such legislation expires with the termination of the emergency, but in Canada the extraordinary powers granted to government remained on the books.

Before the proclamation of October 1970, Prime Minister Trudeau was questioned by reporters about the government's likely response to the kidnapping of the British Trade Commissioner, James Cross, and the Quebec Labour Minister, Pierre LaPorte. He responded: "Well, there are a lot of bleeding hearts around who just don't like to see people with helmets and guns. All I can say is, go on and bleed, but it is more important to keep law and order in society than to be worried about weak-kneed people who don't like the looks of. . . ." The reporter interrupted him to demand: "How far would you go with that?" The Prime Minister replied, "Well, just watch me."

Without seeking the approval of Parliament and under the signature of the Governor General of Canada, the Act was proclaimed in the early hours of the morning. A few minutes later, Quebec police were knocking on doors to inform the occupants that they had violated the law by being members of the FLQ, an organization which, if it ever existed, had been outlawed while those who had been so rudely wakened were asleep.

There is little doubt that nervous politicians who cried "apprehended insurrection" to justify the government's strong-armed methods were supported by a broad-based public opinion. To many, Trudeau was showing those "terrorists," or showing those "separatists," or just showing "Quebec" who was boss. Canadians in Ontario, Alberta and British Columbia were "fed up" with Quebec, its demands and threats. Whatever the cause, the public found the solution appropriate. Yet as one reporter quipped, "This is the first time in this country we've had a counterrevolution before having had a revolution."

Analysts will argue whether the provocation of the Cross kidnapping, the killing of Pierre LaPorte, the FLQ manifesto, rumors of dynamite caches and of governmental uncertainty in Quebec constituted sufficient grounds for the federal government to believe that "apprehended insurrection exists," and to proclaim an Act which suspended the operation of the Canadian Bill of Rights, sent troops into Canadian streets, and filled Quebec jails with dissenters of every stripe who had committed no crime and were charged with no offense. The authors of a recent book on the subject—*Rumours of War* by Haggart and Golden—ask: "Was the invocation of the War Measures Act and the regulations proclaimed thereunder an effective response consistent with the danger of the times, or was it the government giving reassurance by doing *something*?"

If that was the intention, the move was successful; the Trudeau government gained popularity by invoking those measures. But I am less interested at the moment in the political motives for the imposition of emergency measures (phased out last April) than in the implications of the October crisis for the future administration of justice in Quebec and in Canada as a whole.

The function of the legal process is not just to provide means whereby society can control the behavior of its individual members in the interests of the majority. Law is also one of the principal methods by which a society controls itself, limiting its own powers in the interests of the individual and his freedom. Legal protection of individual liberty from the oppression of an aroused majority is central to the preservation of free society. Care must be taken that enforcement be directed toward those who indeed cause injury to the freedom of others. Governmental action against the small core of violators should not become an excuse for extending powers to the point where all those who contest the validity of the system and its laws are harassed and imprisoned.

Police leadership continually decries its lack of flexibility under the law. The police feel restricted by the dictates of normal procedures, particularly when faced with abnormal problems of enforcement. As René Levesque, leader of the separatist Parti Quebecois, said just before the proclamation of the War Measures Act, "That's one very important fact; we had a rather inefficient police setup. The police high command were trying literally to indoctrinate them [the Quebec cabinet] with their demands for extraordinary powers. . . ."

Police in Canada have wide powers of arrest, search and seizure under the provisions of the Canadian Criminal Code. In addition, the federal police force, the Royal Canadian Mounted Police, employs "writs of assistance" which provide even wider powers of search and seizure without the need to specify the person or premises to be searched. During the Quebec crisis persons were detained

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without charge and without bail, an extraordinary power provided by the War Measures Act. The same legislation created the offense of membership in, or advocacy of, the FLQ. Persons arrested under the regulations did not have to be charged for twenty-one days. As the authors of *Rumours of War* say:

> Eight times as many persons were arrested and detained as were eventually charged with anything, and since no police force can conceivably be that incompetent, it is clear that with the vast majority of arrests there was no intention or likelihood of any charges being laid. The purpose was clearly for short-term internment, and not even internment from advocacy of the FLQ, since, had that been found, charges could have been laid. The purpose was for internment on grounds *other* than those stated in the War Measures Regulations. In the majority of cases, these grounds were radicalism, objectionable to some, but legal none the less, and opposition to government policies.

The United States won its liberties in the crucible of battle. As a result its principles of individual liberty are enshrined in a Constitution and Bill of Rights which are fundamental to the application of the laws of the country.

Because in Canada we have traditionally relied upon protections inherent in the British system of justice without making them explicit, the only real protection for the individual is the criminal procedure that is part of our Criminal Code. The Canadian Bill of Rights is merely a legislative act like any other. It is not constitutionally entrenched and accordingly it does not have priority over all other legislation. The need in Canada for constitutionally protected rights is made evident by the exercise of these emergency powers which, as they were administered by the police and government, superseded normal criminal procedures. Legal counsel and speedy access to a court of law were denied to all those brought into custody.

In retrospect, what is most frightening about the days that followed these mass arrests was that the outcry from lawyers and the public generally was minimal. Most people assumed the need for such Draconian measures. The Socialist-oriented New Democratic Party, through its leader David Lewis, continually demanded information to support or justify the federal government's stand. That information was never forthcoming. The Conservative opposition under the leadership of Robert Stanfield also requested, on a number of occasions, information that would validate the allegation of an insurrection in Quebec. They too were unsuccessful. Soul-searching has now begun as a number of civil liberties associations and journalists review, with hindsight, the events that led up to the proclamation. They too labor in the dark.

Chambers, Halifax (Canada) Herald

"The WIRE—Not the Pole!"

Very few charges resulted from the mass detentions. Those accused of kidnapping and murdering Pierre LaPorte attempted to make martyrs of themselves and discredit the court during their hearings. The question of the use of the contempt power in order to maintain courtroom decorum (as in the Chicago conspiracy trial), the publicity occasioned by the coroner's inquest into the circumstances surrounding the death of Pierre LaPorte and the laying of seditious conspiracy and sedition charges, which served as a broad net in which to snare accused persons when the prosecution could not otherwise establish a specific charge, were debated in the English-language press.

It is rare that agreement to commit a crime can be established by direct evidence, and conspiracy is therefore established by inference from the conduct of the parties. To prove the agreement, evidence such as hearsay, which would normally be inadmissible to establish any other criminal offense, may be admitted to show links in a chain of circumstance from which the common agreement may be inferred. In short, a conspiracy may be established by evidence that is admissible only upon the assumption that a conspiracy existed.

More than a year after the arrests made under the War Measures Act charges are yet outstanding. It was reported that the Quebec Justice Department had dropped charges against thirty-two persons, but this was denied by Jacques Ducros, special Crown prosecutor, who handled the major cases arising out of the crisis. The charges had been merely stayed and proceedings could be resumed at any time. As the chief prosecutor said, "That is not to say they will be, but they could be." Thus the decision of a prosecutor on the instructions of a provincial Minister of Justice is permitted to place persons under the cloud of an unresolved criminal accusation for an indeterminate period. The injustices surrounding the application of the War Measures Act are compounded by the inability of the prosecution and the courts to deal expeditiously with politically motivated charges.

The proclamation of the War Measures Act was clearly legal, yet the words of Thomas Jefferson seem applicable. "The strict observance of the written law is doubtless *one* of the highest duties of the good citizen, but it is not *the* highest." There is then a duty above law to preserve liberty, human dignity and to protest unjust laws.

Urban terrorists aim to make a mockery of our system of justice by pointing out its inequities, its political bias and the abuse of power by those charged with its enforcement. The procedures surrounding the most recent proclamation of the War Measures Act do not constitute the kind of testament to fair and impartial justice that will stand the test of rigorous criticism to come.

As yet, that criticism has been minimal. Rather than a resurgence of the Canadian Left in the wake of the abusive

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application of emergency measures, the country seems to be undergoing a movement to the right. A Quebec government white paper has recently recommended that Quebec police be strengthened by centralizing its operations under the overall direction of a new and separate Department of Police Affairs. The Quebec Minister of Justice strongly favors identity cards for all Quebec residents. That, he believes, would be a small price to pay to control crime, terrorism and the FLQ within the province. The call for compulsory identification cards in Quebec is supported by the majority of its citizens. The proposed need to control political agitation, in the aftermath of the October crisis, has provided the clinching argument. The Quebec government seems to be moving toward the kind of society in which the majority will be secure, yet few will be free to challenge political power with any vigor.

The federal government, too, has developed a new concern over internal security. Until recently, this area has been the sole responsibility of the Royal Canadian Mounted Police. Now, however, three men with military and police experience have been appointed to assemble a research and planning staff to advise the government on internal security, espionage and sabotage. This civilian agency will report to the federal Solicitor General and through him to the federal government.

Back in 1969, a Royal Commission reporting on Canadian security recommended that a civilian group take over from the Royal Canadian Mounted Police chief responsibility for internal security. At that time Prime Minister Trudeau referred to internal security in the United States and said, "I wouldn't want its principles applied around here." Obviously there has been a governmental change of heart. The powers of this new agency have not yet been defined but the potential is ominous. This creation is a child of the October crisis.

The most recent indication of the continuing effect of implementing the War Measures Act came from the Solicitor General of Quebec, Roy Fournier, who said on September 1 that Quebec should have the power to bring in its own War Measures Act when it feels its democratic institutions are threatened. The Canadian press reported that Mr. Fournier said the Canadian Constitution "doesn't go far enough" and must be changed to give Quebec and every other province the power to invoke its own emergency legislation in times of crisis. A day later the same Minister admitted that charges of beatings in Quebec's Orsainville jail during the October crisis were true, but that this finding had not been made public.

The facts now known may not seem to have been sufficient to justify the imposition of emergency measures. Yet in spite of growing doubts about the original need, the very proclamation of the Act seems to have spawned a public consensus. The unspoken argument goes like this: it would not have been proclaimed if it was not necessary; thus it was necessary. If then it was necessary, further measures must be taken to avoid events similar to those which originally made the imposition of war measures essential. This argument not only lacks logical consistency but is based on a questionable assumption.

Canadians have seldom been concerned about their liberty and have supported government action on the assumption that government has access to information unavailable to the public and, accordingly, knows best what is required. The proclamation of the War Measures Act and its aftermath of governmental anxiety characterized by increased security and expanding police responsibility has done little to shake public confidence in the government's omniscience.

On the eve of his election, Pierre Trudeau promised the country a Just Society by the creative use of law reform directed to that laudable end. If a Just Society is to be more than a political catch phrase, it must incorporate the fair and impartial application of law. The nature of a government's response to social and political turbulence indicates the level of its tolerance to diversity. While Canada has been developing politically and economically, Quebec has been victimized by a past which condemned its citizens to poverty and neglect. Now, in the aftermath of the October crisis, Quebecois may be victimized by security measures that are not intended for the rest of Canada, but are aimed at controlling Quebec's future. □

ROAD GANG

THE HIGHWAY LOBBY IN AMBUSH

BEN KELLEY
Mr. Kelley was from 1967 to 1969 a Department of Transportation public affairs director. He is the author of the recently published The Pavers and the Paved *(Donald W. Brown), an exposé of the highway program.*

After years of ignoring criticism in the hope it would go away, the highway lobby is now convinced that it faces a real, possibly permanent, condition of public hostility, and has decided to fight back, hard. Until very recently, the lobby—road construction, auto and tire manufacturers, oil refineries, truck operators and allied industries dependent on government-financed highway construction for profit—was content publicly to dismiss its detractors as crankish malcontents. Privately, highway support groups warned their members that the environmental and urban activists, who were railing more and more aggressively against road building, just might be the vanguard of a national anti-highway mentality, but the warnings produced little organized counterattack.

Now the time of complacency has passed. Highway lobby trade associations, their members alarmed by the souring of the national love affair with cars and roads, have initiated an intensive propaganda campaign designed to persuade the public, and through it the Congress and White House, to resist demands by highway opponents

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for reduction of federal-aid highway spending and for faster development of alternative means of transportation. If successful, the campaign will convince the average American that it is in his best interest for Congress to keep the federal highway trust fund, with its more than $5 billion a year in earmarked money for road building, intact at least through 1977—as now provided by law—and possibly beyond.

The most hopeful predictions of its critics notwithstanding, the campaign stands a good chance of succeeding. Its war chest is provided by prosperous companies that can stay that way only if federal-aid road funds continue to be generously dispensed. Moreover, the highway sponsors believe in the rightness of their cause. They continue to equate new expressway openings and increased car registration (112 million at latest count) with the achievement of the American dream—an accomplishment for which highway-connected damage to air, land and people is considered an unfortunate but acceptable trade-off—and they sincerely find it impossible to comprehend an opposing point of view.

Arrayed against the highway lobby is a numerous but haphazard collection of environmental action groups, opponents at the community level (including prospective victims in or along rights of way), urban protection associations, public health workers and other volunteer freeway fighters. The Highway Action Coalition, a new arm of Environmental Action, is trying to pull anti-road factions into an operating national movement. It estimates that upward of 140 local hassles against road-building projects are now in progress across the country, not many of these citizen groups realizing that the future of U.S. expressway construction policy will be decided by federal, not state or local, officials. Thus they concentrate their meager resources, a few dollars in contributions and the occasional off-hours help of willing members, on stalling specific pieces of pavement at the community level—pavement that would not have been planned in the first place had there been no earmarked federal highway trust fund to help pay for it.

Typical of the counter-highway movement is the Interstate 66 ruckus, in which an angry group of homeowners in the Washington suburb of Arlington, Va. is trying—unsuccessfully, so far—by publicity and litigation to stop construction of 3 miles of superhighway through their back yards, churches and schools. The impassioned literature of the Arlington Coalition on Transportation, the resident action committee formed to fight Interstate 66 more than ten years after the project was first announced by the Virginia State Highway Department, makes much of the need to scrap the highway plan and to develop in its place "efficient, convenient, inexpensive public transportation systems" for northern Virginians commuting through Arlington to the District. Yet nowhere does the literature explain that the federal largesse available to help the Virginia highway agency build Interstate 66 cannot, under federal law, be used to finance those attractive alternatives.

It is quite conceivable that the Interstate 66 fight will end without its Arlington community activists ever realizing that, for practical purposes, their chief enemy was not a single road plan or state highway department, but an entire body of federal statute, or that if the highway they object to is stopped, the money will simply be used to build another highway through, perhaps, some other unwilling neighborhood elsewhere in Virginia.

"Concerned Citizens to Preserve the Historic Hudson River Valley" is a similarly grass-roots citizen league, this one dedicated to preventing freeway penetration of a residential and scenic area north of New York City. Its specific target is the Hudson River Expressway, planned to pass through, among other pretty places, Sleepy Hollow, N.Y. The federal trust fund is expected to pay half the bill for the Hudson River Expressway, but a "Concerned Citizens" pamphlet explaining the group's position says not a word against this nationally sanctioned device, even though without it the highway plan would never have been cooked up in the first place.

The story is the same for most community-centered highway opposition movements. They become obsessed by and enmeshed in short-range local controversies over specific highway projects, and their life and attention spans are limited accordingly. Complaining about highway abuses exclusively to state road agencies—the retail outlet, as it were—they fail to realize that the policies from which highway dollars and projects flow in the first place have been crafted at the national level, and that only in Congress, which is wholesale headquarters for the manufacture and distribution of national transportation programs, can it be decisively reshaped.

But if enough local volunteer groups were to coalesce into a sustained national movement to "bust the highway trust," as the Highway Action Coalition puts it, they could probably exert a strong and immediate influence on federal transportation policy. It is against this danger, as well as against the recent remarkable rise in media criticism of expressway proliferation, that the highway lobby is defending itself with propaganda campaigns that bypass community-by-community skirmishes to operate on the loftier, more productive level of orchestrating nationwide public opinion.

The lobby is naturally curious to learn with some precision how the public at large feels about its wares. To test that mood, and also to collect ammunition for rebutting anti-highway arguments, the road transportation interests have undertaken three public opinion surveys in recent years. The most recent one was completed last spring under the sponsorship of the Highway Users Federation for Safety and Mobility. HUFSAM, largest and most influential of the national highway support groups, is a major participant in the newly launched propaganda campaign, and the edited results of the poll are already figuring prominently in the handout material. But to be fully appreciated, HUFSAM's method of exploiting its poll should be considered in the context of the surveys that were made earlier.

The first was an ambitious, $268,000 examination of countrywide attitudes toward highways, entitled the "National Survey of Transportation Attitudes and Behavior"; it was conducted for the American Association of State Highway Officials. The state highway officials' organization announced completion of this survey in mid-1968 by issuing a press release which stated that the findings established "beyond a doubt that there is no reason for combining transportation programs nor pooling

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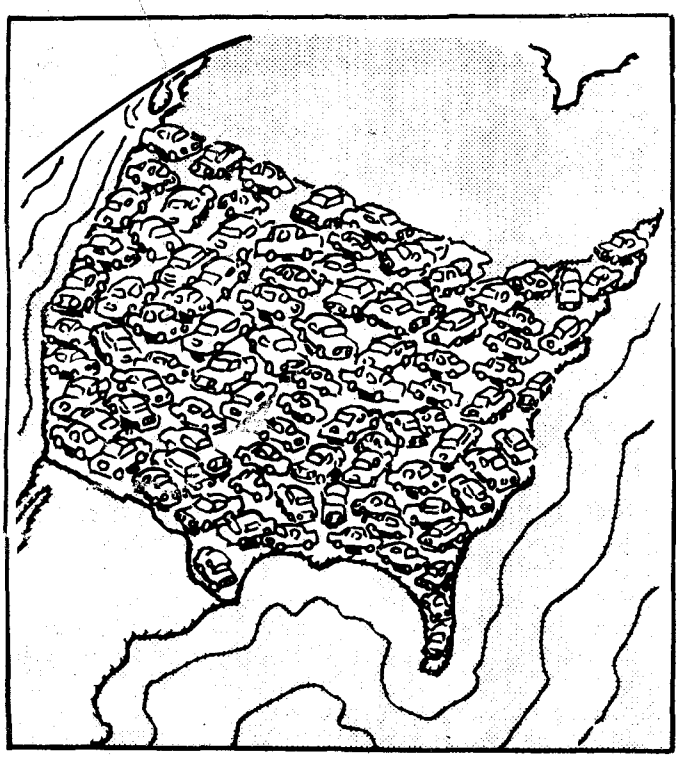
transportation financing" (coded allusions to proposals for opening the highway trust fund to mass transit as well as highway construction uses) and demonstrated "the continued popularity and need" for a high-intensity program of expressway expansion.

But these claims cannot be derived from the questionnaire data; a detailed study of the National Survey findings disclosed, in the words of the professional poll takers who did the job, a clear public wish that "improvements should be made in both automobile and public transportation, *not one to the exclusion of the other.*" (My emphasis.) This suggests that as long ago as early 1967, the public would have welcomed an expansion of the trust fund's traditional "road building only" limitations, to allow some of the fund's multibillion dollars of annual revenue to be channeled into improved public transportation.

The second survey was carried out in the District of Columbia in 1969 by Oliver Quayle & Company for the "Joint Committee on Transportation for Metropolitan



Graham, Arkansas (Little Rock) Gazette

"Oh, Beautiful for Spacious . . ."

Washington," a business coalition pushing for expanded freeway construction in the pavement-plagued capital. The sponsors claimed that the survey's results proved District residents favored "the need for additional freeways in the District," but not even the committee-published summary of the results supported that interpretation. In fact, the summary clearly showed that a majority of Washingtonians interviewed wanted new rapid rail mass transportation facilities, not more freeways. As for the full, tabulated results, they were never released.

Thus it is consistent with the way in which earlier highway lobby polls were handled that HUFSAM is eager to achieve wide distribution of a bowdlerized version of its new survey results, but also determined to keep the supporting data out of unfriendly hands. HUFSAM's news manager said to a representative of the Highway Action Coalition, who asked to see the findings. "I don't think we want to give you that; I don't think you would do us any good."

HUFSAM's press release begins:

> The great majority of Americans have a favorable impression of the U.S. highway system, according to a national survey made public here today [September 24, 1971]. . . . In announcing the results of the survey, D. Grant Mickle, president of the federation, said, "This poll, conducted by an unbiased and highly respected leader in the opinion survey field, proves so-called public animosity toward highway transportation to be a fiction. We trust that public officials will respond to the preferences of the public in shaping our national transportation policies."

And the canned speeches and press circulars, with which HUFSAM field men have been directed to blanket news media, civic associations, school kids and business leaders, are built around the claim that the poll showed "a whopping 80 per cent of the public has a very favorable impression of our highway system!"

But according to a smuggled copy of the underlying interview data, which indeed were prepared by an "unbiased and highly respected leader in the opinion survey field," the Opinion Research Corp. of Princeton, N. J., that is not the case. When asked whether their opinion of the highway system was "very favorable," "fairly favorable," or "not very favorable," 57 per cent of the people interviewed by Opinion Research took the middle ground of "fairly favorable." Twenty-three, not 80 per cent chose "very favorable," and 14 per cent chose "not very favorable," with the remaining 6 per cent declining to choose.

Much more significant in the poll's findings, however, are data that HUFSAM has preferred not to emphasize in its news release. For instance, only one in four persons interviewed was aware that the nation's highway system is financed mainly by gasoline taxes deposited into the earmarked highway trust fund. Moreover, "Half the public simply state that they have no idea about how much of their taxes go for highway construction," according to Opinion Research, and "relatively few are aware of the correct amount—$138—the average driver pays in a year [in taxes] for highway building and maintenance."

(One wonders whether the interviewees with a "fairly favorable view" of the highway system would retain it if they knew the system costs them $138 a year just in carrying-charge taxes. That breaks down, incidentally, to slightly more than 1¢ per mile for cars. The average truck, on the other hand, pays only 0.03 cents per mile in highway construction taxes, which speaks well for the influence of the highway lobby's trucking component.)

Looking further into the HUFSAM poll, one finds that a majority—57 per cent—of those interviewed, both rural and urban, endorsed the once radical idea of restricting the use of automobiles in downtown areas of cities. Of big-city dwellers interviewed, 66 per cent favored the idea, and of those interviewed whose education extended beyond high school there was a "whopping" 75 per cent who liked it.

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When asked whether they would favor restricting downtown auto use "in your own case," 60 per cent of the urbanites answered affirmatively, as did 64 per cent of those with educations beyond high school. Forty-eight per cent of those interviewed, including rural dwellers, said they would accept downtown driving restrictions even on their own driving, and 42 per cent said they would not.

In a number of important population groups surveyed for the HUFSAM poll, half or more of the interviewees said they believed that the effect of highways is unfavorable on the environment and on places they traverse. These groups were people in the 18 to 29 and 40 to 49 age groups; those with higher-than-high-school education; professionals; big-city residents, and those with annual incomes of $10,000 or more. In each group, at least 50 per cent said they felt that highways had a "somewhat unfavorable" or "very unfavorable" impact on the environment and on surrounding areas.

The public attitudes that thus emerge from the Opinion Research poll offer no proof that "so-called public animosity toward highway transportation is a fiction"; at the same time, they do seem to offer persuasive documentation that, among urbanites, the educated, the economic middle class and young adults, strong doubts about continued reliance on cars and roads are running very high indeed. Reading the poll's tabulated results, a metropolitan mayor or councilman would have to conclude that the politically opportune time has come to ban the car in the urban downtown, and any campaigner for national public office would have to consider that "bust the highway trust" might have great potential as an issue that reflects Americans' current, and probably permanent, high level of concern with environmental protection questions.

The intensity of HUFSAM's propaganda effort has picked up since the poll was completed, possibly because the organization's leadership has been forced by its results to recognize how widespread and firmly rooted has become the public's discontent with almost total dependence for its surface transportation needs on the auto-highway combination. An attitude composed of one part fury, one part panic characterizes the HUFSAM "truth squad" operation, as the group's staff members like to call it. It is, in the proud words of an internal memo from HUFSAM's public relations chief to his staff, a "hardhitting, namecalling refutation of the current highway myths, backed up with news releases and supported also by local TV and radio interviews."

Targets of the "hard-hitting, name-calling" campaign are authors of books and articles critical of the nation's all-highway spending policies; Secretary of Transportation John Volpe, who has drawn an irate open letter from HUFSAM's chairman because he makes speeches questioning the nation's "excessive dependence on the auto" and the resulting "threat of urban suicide"; Sen. Vance Hartke, because he was once quoted as saying that the nation has 3 million miles of *paved* roads instead of 1.5 million miles of *paved road* and 1.5 million of *unpaved* road; Environmental Action's "Earth Tool Kit" book because, due to a proofreading oversight, it conveys the impossible idea that highways cover 3.6 million *square* miles of land in the United States instead of (obviously) 3.6 million linear miles; *Time, Newsweek, Saturday Review, Reader's Digest, The New York Times* and *The Washington Post* for having carried anti-highway commentary, and—this from another internal HUFSAM memo—"a hell of a lot of people, especially nincompoop housewives," who get "all hot and bothered about pollution, missuse [*sic*] of *their* taxes, blah, blah, blah. . . . The *dear* ladies (?) of the League of Women Voters . . . and a bunch of other nuts."

Weapons in the campaign include the canned speech package for HUFSAM field men, prepared news stories "debunking moth-eaten myths" spread by environmentalists and urban protectionists, a set of "fact sheets" chock-a-block with road-defending data and conclusions, highway promotional rallies in thirteen major cities, and boxes of "I'm For Better Highways" bumper stickers to be handed out at highway rallies on a "restricted" basis, "i.e., only to those who clearly indicate intent to use."

These materials, along with paid ads that HUFSAM wants to get into circulation soon, are apparently costing a good deal more than the association's annual $3.5 million budget can provide, so HUFSAM is now attempting to raise additional promotional dollars both from companies within traditional road-lobby industries and from nonlobby companies. In the latter group, auto insurance companies were singled out in September for HUFSAM fund-raising attentions; letters were sent out over the federation's imprimatur urging insurers to "join in helping solve the serious traffic confrontation problem that faces America." HUFSAM asked the companies to kick in $1 for each $300,000 of their earned auto insurance premiums, which would amount to some $50,000 if all auto insurers complied.

So far, though, the insurance industry's reaction to the letter seems to be chilly; it is typified by this editorial comment in a newsletter circulated to upward of 140 auto insurance companies by the Insurance Information Institute shortly after the HUFSAM fund-raising letters appeared: "Auto insurers may well consider whether more highways will solve our traffic problems, or whether it is in the interests of insurers and the public to have a better mass transportation system which will reduce congestion on corridor highways and in densely populated areas—thus reducing the frequency of accidents and helping to revitalize the inner city areas."

A promotional program much more moderate than HUFSAM's is being run out of TRIP—"The Road Information Program, Inc."—which is an entity of the road-building industry created recently to woo Americans back into a highway-loving frame of mind. With the cooperation of public information officers in state highway departments, TRIP is using paid radio time and print media space—some $250,000 worth to start with—to promote the idea that many miles of existing roads are so frightfully unsafe that they need to be upgraded. "Money is available for road upgrading," says a TRIP ad, "but threats are being made to divert this money to other than highway uses." Some highway critics would agree that too little trust fund money is available for improving unsafe roads and too much—$4 out of every $5—is committed solely to expressway construction. The TRIP messages,

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unlike HUFSAM's, seem bent on investing trust fund dollars to get more value out of existing highways.

Even that theme, however, has been deemed dangerously promotional by two of the radio networks on which TRIP tried to buy time. CBS refused to sell time to TRIP in its news network because, according to an association official, "They were afraid our commercials would expose them to demands from environmentalists for equal time under the Fairness Doctrine for sure"—and this was before the recent ruling by a federal court in the Friends of the Earth-Federal Communications Case, which favored broadening the Fairness Doctrine to include such auto-related issues as air pollution. TRIP's offer to buy radio time for the messages was also spurned by ABC, but NBC accepted, and the commercials are now being run six per weekend for thirteen weeks on *Monitor*.

As HUFSAM, TRIP and other operating arms of the highway lobby unfold their program during the coming winter to safeguard federal-aid highway spending policies from adverse public opinion, it will be interesting to see whether, and how decisively, the well-populated but splintered army of opposition reacts. If environmentalists, public health workers, urban advancement leagues and individual citizens who profess to care about the damage produced by overzealous highway building can come together on the national level, and if that coming together should produce strong, sustained pressure on Congress to scrap the highway trust fund, the road lobby's propaganda effort may not count for much.

But if highway opponents continue to limit their concerns and resources to local-level skirmishes against particular pieces of pavement—skirmishes that are immediately and locally important, but don't bring into direct question the federal laws that perpetuate the highway trust fund and the Interstate program—the highway lobby's nationwide struggle for men's minds will go rolling forward largely unchecked and unchallenged.

Which, indeed, it has started to do already. □

LETTERS *(Continued from page 482)*

No. 90 man a picket line seven days a week and the morale of the members is high.

Mr. Berliner's observations that the relationship between employee and employer has greatly altered as family-owned operations have been replaced by conglomerates are true. . . . Richmond Typographical Union No. 90 is 105 years old and has not had a strike against a Richmond newspaper until the present instance. . . . Since the inception of Media General some four years ago, however, there have been more arbitration cases than in the other 101 years of the union's history.

In a recent edition of another news magazine, the president of Richmond Newspapers complained of union tyranny. Apparently it is the intent of the company to completely phase out unions with cheap labor, regardless of its incompetence or the inferior quality of the product it produces.

F. S. Thomasson, President
Richmond Typographical Union, Local No. 90

on communication

Chicago, Ill.

DEAR SIRS: I am intrigued by the irony that one of my favorite magazines, *The Nation* . . . should provide the setting for a personal smear job masquerading as a book review by one Todd Gitlin [issue of Oct. 18]. This one bottoms those of the experts such as the late Westbrook Pegler, Fulton J. Lewis, the *Chicago Tribune*, the John Birch Society and others of that ilk who have zeroed in on me for years. Even in their most vicious attacks they had enough intelligence not to attempt the lie so obvious that it would destroy the entire credibility of their attack as well as discrediting their magazine or newspaper as a source of reliable information. . . . It recalls vividly that famous Talleyrand remark, "This is worse than a sin. It is stupid."

Most of this polemic diatribe or alleged review is anchored on a four-word quotation from my book, *Rules for Radicals*, "more failures than successes." Gitlin then proceeds to use these four words in the following way: "The most remarkable revelation of this book is blunt enough: Alinsky admits that his methods have engendered 'more failures than successes.' " The chapter dealing *exclusively* with the subject of the training of organizers and discussing *only* my experience in that *one* single area of the education of organizers [is the source of] the four words. They appear in the following context:

> As I look back on the result of those years, they seem to be a potpourri with, I would judge, more failures than successes. Here and there are organizers who are outstanding in their chosen fields and are featured by the press as my trained "protégés," but to me the overall record has been unpromising.
>
> Those out of their local communities who were trained on the job achieved certain levels and were at the end of their line. If one thinks of an organizer as a highly imaginative and creative architect and engineer than the best we have been able to train on the job were skilled plumbers, electricians, and carpenters, all essential to the building and maintenance of their community structure but incapable of going elsewhere to design and execute a new structure in a new community.

Everything that follows discusses . . . failures and successes . . . *but always on the sole subject of the training of organizers—not success or failure of organizational projects.*

The balance of Gitlin's piece is corroborative evidence of one of the theses in *Rules for Radicals* that one can communicate only within the experience of the other, and since pragmatism is completely outside Gitlin's experience —as evidenced by his record of complete failure, as well as an "ideology" fifty years behind the times—it is clear that there was not and could not be any communication.

Further evidence of the lack of communication is the fact that both your book editor and Mr. Gitlin overlooked one of the most obvious points in *Rules for Radicals*, to wit, that you can always trust the Establishment to be your best organizer. Their joint overreaction in quantity of pages (after all, you can't have everything including quality) as well as the cover blurb is excellent publicity for the book. . . .

I have taken the position that there are two magazines, one, *The Nation*, and the other, its *rear end*, called the Books and the Arts, and one should not confuse the two. Those desiring *The Nation*'s reaction should read Carey McWilliams' statement in the Aug. 16th *Nation*: "This country's leading hell-raiser—the polite term is 'community organizer'—has set down some of the rules of the game. No one has had more experience or has been more successful at it than Alinsky." . . . ". . . his first book was entitled *Reveille for Radicals*, the present one *Rules for Radicals*. What was then a faint hope resting on heroics has now become a science."

Saul D. Alinsky

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BOOKS & THE ARTS

The Harlem Renaissance Revisited

HARLEM RENAISSANCE. *By Nathan Irvin Huggins. Oxford University Press. 343 pp. $8.95.*

CHARLES R. LARSON
Mr. Larson is associate professor of literature at American University. His book, The Emergence of African Fiction, *will be published in the spring by Indiana University Press.*

A number of years ago, Abraham Chapman published an essay which has since become famous among critics of Afro-American literature. Called "The Harlem Renaissance in Literary History," the essay bemoaned the fact that American literary critics had paid so little attention to the New Negro movement in Harlem during the 1920s and early 1930s. Chapman's observation was long overdue: the typical literary history of the United States makes no reference to the writers of the Harlem Renaissance, whose works paralleled those of the Jazz Age and the Lost Generation. At the time when Chapman published his essay, one had to look hard to find an individual essay on the movement as a whole or on any of its writers, let alone a thorough account of the black renaissance in the 1920s. That situation has now been admirably corrected by Nathan Irvin Huggins. Much of what Professor Huggins has concluded, however, will not sit well with a whole group of younger black writers and critics who look back to the Harlem school in the 1920s for much of their current inspiration. Huggins concludes,

> The truth was (and is) that black men and American culture have been one—such a seamless web that it is impossible to calibrate the Negro within it or to ravel him from it. To know that is one thing, but to feel it and to assert it is something else. At least the decade of the 1920s seems to have been too early for Negroes to have felt the certainty about native culture that would have freed them from crippling self-doubt. I think that is why the art of the renaissance was so problematic, feckless, not fresh, not real. The lesson it leaves us is that the true Negro renaissance awaits Afro-Americans' claiming their *patria*, their nativity.

Much of the strength of Huggins' book lies in the originality of his approach. The literature of the New Negro is subjected to the most stringent critical standards it has ever undergone; there is not a speck of condescension here. (I can almost anticipate a whole group of younger black critics warming up with their counterattacks.) Huggins is a professor of history at Columbia University and the fact that his approach to the Harlem Renaissance is historical has resulted in a book that is immensely readable, never pedantic, always fresh in its evaluation of the materials he has so carefully studied. The result is a history of the cultural diversity in Harlem during the 1920s—not just the literary part of it. The effect of political figures, Du Bois, Garvey and Booker T. Washington; the writers, Langston Hughes, Countee Cullen, Claude McKay, Rudolph Fisher, Nella Larsen, and Jean Toomer; the painters and sculptors, Henry Tanner, Sargent Johnson, Aaron Douglass; the jazzmen and the black contributors to Tin Pan Alley and the musical comedy—all are treated in a way that makes the reader understand why Harlem in the 1920s was, culturally speaking, the place to be.

And, yet, in spite of the outer gaiety and boisterousness of the Harlem Renaissance, Huggins sees it ultimately as a movement which did not live up to its objectives. First and foremost, the renaissance's failures were a direct result of white America's attempt to control it: ". . . The Negro was naturally patronized in his art to serve a white dream and fantasy." Many individual artists could never have survived if not for the money lavished upon them by eccentric whites who looked upon their artistic dependents as primitives. Huggins goes so far as to hint that without this patronage there might not have been a renaissance. Afro-Americans in Harlem served "a new kind of white psychological need. . . . Men who sensed that they were slaves to moral codes, that they were cramped, and confined by guilt-producing norms which threatened to make them emotional cripples, found Harlem a tonic and a release." Some, like Carl Van Vechten, extended their patronage to exploitation. (Ironically, Van Vechten's *Nigger Heaven*, published in 1926, was more successful than any of the later novels published by black writers of the movement.) Huggins concludes, "If black Harlem had been left alone, not been discovered by whites, the whole story might have been different."

With the literature of the New Negro, there was also the problem of imitation. The need to be "culturally" recognized forced some of the Harlem poets to write highly imitative verse: "Provincialism pulled the black intellectual—like his white American brother—away from the culture of his experience into the culture of his learning." Huggins sees this particularly in the case of the poets, Countee Cullen and Claude McKay. Their aim was to excel in traditional literary forms—especially the sonnet—in what they regarded as "high culture," which negated the validity of their own distinct ethnic origins. Their aim for high culture made them blind, especially to the value of jazz and the blues. Even Langston Hughes, whom Huggins declares the most successful poet of the group, was caught in a cultural cul-de-sac because of his attempts to write poetry for the man in the street. Huggins writes:

> Another problem with Hughes's conception was that his beautiful people would hardly sustain an artist, nor would they provide a critical exchange that would help define and refine the art. Thus, the folk artist was especially on his own. He was forced to create his own audience and to generate almost wholly from within himself the critical terms on which his art would rest.

Added to the problems of patronage and imitation was the desideratum of local color: "How could a black man write about his deepest inner feelings artistically rather than sociologically?" Too often the result was the guided tour of Harlem, recorded as fiction by the black novelist, presenting a panorama of black characters and activities—novels that were only surface deep, self-conscious. Huggins believes that Claude McKay, Nella Larsen, Rudolph Fisher, and others barely scratched below the surface of the black man's life. Only Jean Toomer's *Cane* survives Huggins' severity. It plunged below the surface of local color, without sinking into mere exotica, the strained pursuit of the African heritage:

> The real power of Jean Toomer's conception and its superiority to the romanticisms of McKay and Cullen was that *Cane*, though symbolic and mystical, dealt with the past as a palpable reality. It faced the fact of the South and slavery. The final, and perhaps supreme, irony of the primitives was that they were, in their quest for Afri-

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ca, in their fancy of Timbuctoo and Alexandria, forsaking their actual past. They were in effect denying that which was immediate, personal, and discernible for something which was vague, distant, half-myth.

Huggins' last chapter ("White/Black Faces—Black Masks") is his most significant. Here he painstakingly chronicles the history of black American theatre from its origins in white minstrelsy, down through the Negro musicals of the Harlem Renaissance. The dilemma of the New Negro—his inability to break away from the past into new directions of creativity—is analyzed as an outgrowth of Anglo-Saxon escapism in the white minstrel show. White men in black face in the years after the Civil War created a grotesque theatre that served as a safety valve for their own repressed desires.

> What would be more likely and more natural for men who were tied up in the knots of an achievement ethic—depending almost wholly on self-sacrifice and self-restraint—than to create a *persona* which would be completely self-indulgent and irresponsible? White men put on black masks and became another self, one which was loose of limb, innocent of obligation to anything outside itself, indifferent to success (for whom success was impossible by racial definition), and thus a creature totally devoid of tension and deep anxiety.

And, what was worse, after black actors began to produce minstrel shows themselves, they eventually came to believe that the white man's concept of the black man was valid. There was little alteration in the black theatre—as in all of the black artistic forms of the movement—because "black performers [were] perpetuating rather than changing the theatrical stereotype."

The Harlem Renaissance revisited—that is essentially what Huggins has given us in this excellent study. I think that there are limitations in his work, but they are of a minor, often personal, nature. Huggins is occasionally naive about literature itself—something relatively excusable in a work which is essentially historical. (He certainly knows more about literature than most literary critics know about history.) Some of the literature, too, is slighted. Huggins appears to miss the significance of McKay's last novel, *Banana Bottom*; and I think he hits too hard at his second novel, *Banjo*. Although he sees Toomer's *Cane* as the masterpiece of the renaissance, his evaluation of the work is only about half as long as his analysis of Van Vechten's *Nigger Heaven*. Nor are more than a handful of Langston Hughes's poems treated in a manner worthy of their significance. The organization of the book occasionally leads to needless repetition. Nevertheless, *Harlem Renaissance* is a long overdue account of one of the most exciting periods in our cultural past. It should be required reading for all teachers and students of American studies. If the black Jazz Age did not live up to its own high promise, it did create a solid foundation for later Afro-American writers to build upon. Ralph Ellison, Richard Wright, Melvin Tolson—where would they be if there had been no "New Negro" before them? □

Legal Tactics & Social Strategy

WITH JUSTICE FOR SOME: An Indictment of the Law by Young Advocates. *Edited by Bruce Wasserstein and Mark J. Green. Introduction by Ralph Nader. Beacon Press. 400 pp. $12.50.*

CHARLES GARRY

Mr. Garry, a San Francisco lawyer with more than thirty years of civil and criminal trial practice, is best known for his successful defenses in the criminal trials of Huey Newton, Bobby Seale, Los Siete and the Oakland 7.

It was Charles Lamb who, mindful of the 19th-century public's lack of confidence in the legal profession, charitably reminded laymen that "lawyers . . . were children once." Those curious to learn how the members of the contemporary bar lose their childish innocence would do well to read *With Justice For Some.* In thirteen chapters by sixteen young "public interest" lawyers, this book details the common misuses and abuses of the law in the interests of what we might as well call the ruling class, and to the detriment of most everyone else.

The influence of Ralph Nader, two of whose famous "raiders" edited this volume, is evident in most of the contributions. Instead of rhetoric and conclusions, the reader is treated to facts and analysis revealing, in Nader's words, how the "legal system" is "designed largely for the powerful to contend among themselves or against the weak." Thus from Fred Hiestand's excellent chapter, "The Politics of Poverty Law," one learns how law is employed by government agencies—welfare departments, school boards and immigration authorities—to provide agri-business in California with a surplus pool of farm workers that depresses wages, thwarts unionization, and, as a consequence, swells the profits of the growers.

Jean Murphy and Susan Ross show in "Liberating Women—Legally Speaking" how much heralded protective legislation for women has all too often "in fact hurt women." Mark Green and Bruce Wasserstein, who write on juvenile and student rights, respectively, do an equally admirable job of demonstrating the suffocating impact of supposedly beneficial doctrines like *parens patriae* and *in loco parentis*. And consumers in David P. Riley's "Taming GM, Ford . . ." and other corporate giants, are shown as facing a Hobson's choice when it comes to making corporate power truly accountable. Mr. Riley contends "that the government as presently formed cannot do what must be done, and that business will not do it, and that those two facts are related: because business, the dominant culture caught in its own narrow ideological prison, will not, therefore government cannot."

Two chapters are of special interest to those concerned about repression and the plight of black Americans. One, written by a black lawyer, Ronald Brown, and entitled "White Debt and Black Control," argues the moral and legal case for reparations to American blacks. The other is an essay by Harvey Silvergate, a Boston attorney, whose title asks rhetorically, "The 1970's: A Decade of Repression?"

Brown gives a magnificent short account of the history of slavery, demonstrating that its legacy is political and social repression for most black Americans today. He disposes of the liberal argument against one form of reparations, preferential hiring of blacks, that claims "it is just as unfair an employment practice to discriminate against a qualified white worker because of his race as it is to discriminate against a Negro because of his race." This argument, Brown points out, ignores the existing class discrimination against blacks, and on the other hand, the fact that individual whites passed over for jobs in favor of blacks would not be subjected to stigmatization as well.

The legal argument for reparations, although treated rather summarily by Brown, is supported by ample precedent. Postwar Germany's reparations to Jews and the United States Government's recognition of its debt to American Indians with the creation of the Indian Claims Commission in 1946—which found the government of the United States liable to Indians for "the whole of Kansas"—are analogues to preferen-

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tial hiring and benign quotas for blacks. Moreover, the historical development of the Fourteenth Amendment, which was intended to benefit blacks primarily, today allows for classifications on the basis of "suspect criteria" like race if the state can demonstrate a "compelling interest" and show that the governmental objective cannot be attained through a "non-racially focused alternative." The "compelling interest" of the state in supporting various forms of reparations for blacks is evident from the "historical legacy of slavery, institutionalized burdens for blacks, and the legitimacy of black demands." Brown apparently also believes that there are no "non-racially focused alternatives" that will accord equality to blacks. "Though strict adherence to and enforcement of a policy of equal treatment for all might have avoided the development of preferential or discriminatory treatment on the basis of color in America, imposition of such a policy [now] simply perpetuates the exploitation of black labor and ignores more than 350 years of preferential treatment for whites." I concur with this statement, but dissent from any implication it may carry that there are no "non-racially focused alternatives" to black equality.

Indeed, preferential hiring, Philadelphia Plans and loans from the Small Business Administration to foster black capitalism—all of which Brown urges as forms of reparations for blacks—will benefit individual blacks but never eradicate their class oppression. A "non-racially focused alternative" that would make possible the conditions for black equality is mutedly suggested in another chapter, that by Fred Hiestand about California Rural Legal Assistance—an OEO-funded law firm that has incurred the wrath of Ronald Reagan and California agri-business—and its legal battles on behalf of the rural poor, especially Mexican-American farm workers. In questioning the viability of the War on Poverty, Hiestand notes, "There is strong evidence that its failure is inherently predictable." This evidence is from two sources. First, poverty is as much with us today as when LBJ launched his rearguard skirmish against it. Second, the socio-economic system of capitalism breeds and perpetuates poverty. As the President's 1968 National Advisory Commission on Rural Poverty noted, "[T]he sustained, . . . full employment . . . required for the War on Poverty to succeed may be impossible to achieve . . . [within] the financial system of American capitalism." It is to be hoped, accordingly, that the black movement will strive to transcend and replace the inhumanity of the "financial system of capitalism," not just try to get in on the action. The program and principles of the Black Panther Party are instructive in this connection, for they recognize the value and limitations of reforms like benign quotas and SBA loans.

Harvey Silvergate's chapter is a catalogue, by no means complete, of instances of legal and illegal repression, of those dissatisfied with the consensus politics that perpetuates war, poverty and racism. While his chapter is accurate enough in identifying violations of fundamental liberties, there are omissions of a conceptual and analytic nature. First, Silvergate does not provide the reader with a balance sheet that would allow him to determine how we stand in the struggle against repression. That is important because many persons understandably but erroneously see the verdicts in the trials of Huey Newton, the Oakland 7, and Bobby Seale and Ericka Huggins as evidence of the lessening of repression. Certainly these victories make clear that totalitarianism is not upon us at the moment, but it is a serious indictment of the American system of justice when innocent persons like Huey Newton, Bobby Seale and Ericka Huggins can be charged with murder, imprisoned for months or years, forced to find attorneys who jeopardize the existence of their law firms because of the enormously expensive, uncompensated efforts required —all just to avoid being wrongly found guilty—and then have to repeat the trial all over again. The dual meaning of these individual verdicts must be recognized so that we are not too quickly persuaded that fascism can't happen in America.

Second, Silvergate does not provide a conceptual framework that helps explain contradictions within the legal system between repression and freedom. It is indisputable that there has been a retrograde tendency—no-knock provisions in the Washington, D.C. crime-control bill, wire tapping and eavesdropping licensed in the Omnibus Crime Control Act, and a "new" Supreme Court with a strict constructionist majority. Again, within the past three years the United States Supreme Court has taken extremely regressive steps in backing away from an earlier decision which allowed citizens to obtain injunctions from federal courts against state court prosecutions when the statutes upon which those prosecutions were based were themselves unconstitutional. But how account for the dramatic reversals, the laws that enhance freedom? For, just this past term, the Court took an important step forward by implying a right to collect damages against *federal* officials for violation of a person's constitutional rights despite the absence of any express Congressional remedy. What is the explanation, if any, for these seemingly contradictory opinions from the Court?

The approach to an answer is suggested by an observation of Tocqueville quoted in the introduction of this book. In a capitalist society with the formal trappings of democracy, "social problems," Tocqueville suggests, ". . . [are] translated into legal problems." The legal battles reflect the clash of issues

AND THEN HE SPOKE OF THE LANGUAGE ITSELF
(for Rory Holscher & John Hessler, poets)

I see America closing in on my friends.
Once I was angry; once I protested in poems.
Mandelstam: May 13, 1934: I see
The Kremlin's mountaineer in America.

Words, words: the poem an execution.
They are gunning for Rory and John.
I can see them come in the night.

There is no place to hide.
Their aim is single and passionate.
I see America closing in on my friends.

But I harbor them in my house
With my wife and my beautiful daughters.
There is a knock at the door,
The face of a goon at the window.

They will murder us, simply.
They have been elected to do it.
There is no motivation at all.
Our documents are simple and in order.

John Matthias

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and interests in society as a whole and a study of the law can thus reveal much about the workings of that society—as this book does. But ultimately a theory must evolve from that study, an ideology that serves as a matrix for action. Unfortunately, the "end of ideology" point of view is still very much with us. Efforts to adapt an ideology like Marxism to contemporary America, especially as a means of explaining the law, are few and feeble. Ralph Nader and his protégés have shown what can be done simply by mustering facts. But unless these facts are coupled with an ideology, there can be no real program for social change.

Finally, the absence of any ideology to explain the contradictions in the law by tracing them to the contradictions in the political and economic system, accounts for the lack of any strategy to help lawyers, especially "public interest" lawyers, direct their efforts to bringing about a just society. Nader hints in his introduction at the necessity of reforming the nation's law schools, the implication being that thousands of public interest lawyers in Washington will straighten up America. Eric E. Van Loon suggests how this might be done in "The Law School Response" by describing as a model Arthur Kinoy's clinic on Constitutional Litigation at Rutgers Law School. Beverly Moore would like lawyers to form public interest law firms, along the lines of the NAACP Legal Defense Fund. Bob Fellmeth, who writes on "The Regulatory-Industrial Complex" with little of the factual information that made his contribution to the Nader Task Force study on the ICC so valuable, suggests some reforms for avoiding conflicts of interest and insuring decent appointments to regulatory agencies. The list is endless, but it is piecemeal. What is missing is a strategy for achieving basic structural changes in our society that would encourage a relatively democratic distribution of wealth and power. *With Justice For Some* does not provide such a strategy because it offers no general ideological analysis that might support one. But the book is an important start. It should be read by lawyers and laymen who want to know more about the uses and abuses of the law, and acquaint themselves with the general tendency of current tactics for reform. □

Malamud's Literary Ethic

THE TENANTS. *By Bernard Malamud. Farrar, Straus & Giroux. 230 pp. $6.95.*

PETER GLASSGOLD
Mr. Glassgold is an editor at New Directions.

Bernard Malamud's reputation was established in the decade before last with two novels, *The Natural* (1952) and *The Assistant* (1957), and a collection of short stories, *The Magic Barrel* (1959), which received the National Book Award. And it was evident from the start that his work was very much an embodiment of the intellectual ambience of the 1950s: it was politically liberal and, above all, literary. Malamud's fiction, moreover, was generally in the traditional vein, not especially experimental in the *avant-garde* sense, although it showed an inclination toward fantasy and the dream-narrative; nor was it given to dealing directly with the social issues of the day.

The radical change of sensibility during the past few years seemed to have little effect on Malamud. If his work has been at all "relevant," it has only been so by indirection. *A New Life*, for example, published in 1961, concerns itself in part with the know-nothing academic conformity of the McCarthy era a decade earlier, while its setting is the imaginary Northwestern state of "Cascadia." Again, *The Fixer* (1966), although a powerful chronicle of minority oppression, is based on the ritual murder accusation in 1911 against Menahem Beilis, a Jew in Czarist Russia—for all intents, a locale as removed from current exigencies as Cascadia College.

On the basis of these two books alone, one might easily—and correctly, I think—offer the generalization that in Malamud's fiction, the adversities of time and place are not important in themselves; what matters is the manner in which people see them through and, thus, rise above them. Indeed, it is in his recognition of the inevitability of human misery that the author, to quote Philip Rahv's introduction to *A Malamud Reader* (Farrar, Straus & Giroux, 1968), "transcends all sectarian understanding of suffering, seeing it as the fate of the whole of mankind, which can only be mitigated when all men assume responsibility for each other."

We may speak, then, of an ethic of literature, instead of an aesthetic, and the mechanism by which it is tested: the very substance of the narrative, the plot. Malamud's protagonists are not very young men; in their early 30s, they have been through a series of defeats and look forward to redemption in a new, fulfilling, ordered life. (They are usually, though not always, Jewish as well; but I think for no other reason than that Malamud, being Jewish himself, is more comfortable in portraying Jews.) From Roy Hobbs, the thwarted baseball "natural" desperate to succeed at last in the big leagues, to the ludicrous figure of the artist and scholar *manqué* Arthur Fidelman (*Pictures of Fidelman*, 1969), for twenty years now Malamud has been adding to this gallery of losers, second-rate men rash enough in their humiliation to try to reverse their years of misfortune.

But rightly or wrongly, this present age demands of a writer of Malamud's stature that he apply his humane ethic to the particulars of this time and this place; to an America in which a ghetto refers to a black slum, not its European, Jewish original; to a diseased nation holding out small prospect for a "new life." In *The Tenants*, he does just this—and not the ethic but the age is found wanting.

Harry Lesser, a 36-year-old bachelor, is trying to complete his third novel. It is to be his masterpiece. Indeed, it must be, since he has been laboring over it for nine years, and nothing short of a perfect work can justify the effort. But: "Lesser makes things hard for himself for certain reasons. That's a long tale but right now it means he doesn't know how to end his book"—another bungler determined, at all costs, to be special.

In his rent-controlled apartment on East 31st Street in Manhattan, he writes, doggedly, six hours a day. One by one the buildings on his block are demolished to make way for renewal projects, until his alone stands amid the rubble. ("In New York who needs an atom bomb? If you walked away from a place they tore it down.") But Lesser, who "lives to write, writes to live," does his best to ignore the surrounding blight and the landlord Levenspiel's painful pleas that Lesser move so that he can renovate.

We are prepared for a battle between landlord and tenant—how will Levenspiel find a way to have Lesser evicted? Turn off the heat? Burn the house down? Malamud, however, turns the tale to a different rivalry when Lesser discovers Willie Spearmint, an aspiring black writer who has set up an "office" in one of the vacated apartments in the building. Holed up together in the dead of winter, from the very start these two men strive

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against each other, every lunatic encounter underscoring a new aspect of their antagonism: between black and white, Gentile and Jew, radical and liberal, male and male, and, most bitterly, between writer and writer. In the end, oblivious to everything but their rage, they are reduced to picking through the rubbish ("a literary garbage can, [where] the garbage of language becomes the language of garbage") to find evidence of each other's daily progress.

Lesser's endless novel is called, appropriately, *The Promised End*, and its theme is love, life fully realized—the very thing he cannot achieve in his everyday world. Willie in his work similarly aspires to the unattainable: to encompass the diversity of black experience. Thus, what he produces has "been written before, and better, by Richard Wright, Claude Brown, Malcolm X, and in his way, Eldridge Cleaver"; and his style varies from "Standard English to black lingo. . . ."

In the surreal urban landscape of *The Tenants*, Malamud, a writer, has reduced the crises of our day to a single metaphor—the act of writing itself. Even Willie's resentful dependency on Lesser in matters of craft is reminiscent, in New Left terms, of a colonial situation; and without much stretching of the imagination, his reaction to it can be read in the light of the Third World view of technology:

> . . . we are the rising people of the future, and if the whites try to hold us down, it ain't no secret we might have to cut your throats. You have had your day and now we gonna have *ours*. . . . Now all I want you to do for me, Lesser, and I wouldn't be asking you if we both wasn't writers, is not to spend any time criticizing the subject of any stuff I might show you, but tell me the best way how I can write the same thing, with the same ideas, better. Only about the form of it, in other words, dig?

Nevertheless, despite the revolutionary posturing of the one, and the high-minded invocations of "Art" by the other, Willie and Lesser both end up grubbing in the trash. I have no doubts about the accuracy of Malamud's brilliant yet grim vision of collective debasement, so long as men feel compelled to lose themselves in petty quarrels. In *The Tenants* he has in effect written a commentary on his redemptive ethic, reminding us that the "new life" can be postponed all too easily, diverted by what may prove to be the trivia of the moment. □

Education Without Schools

DESCHOOLING SOCIETY. *By Ivan Illich. Harper & Row, Publishers. 116 pp. $5.95.*

THE RELEVANCE OF EDUCATION. *By Jerome Bruner. W.W. Norton & Co. 175 pp. $5.95.*

M. ANN PETRIE
Miss Petrie is writer-in-residence at The City College of New York. She has contributed to New York Magazine, The Village Voice *and* The New Leader.

The inadequacy of our schools has been so widely publicized and has affected so many Americans that I imagine few would disagree with the claim that reform is needed throughout the educational system. Yet most attempts at reform have failed. The reasons for this are no doubt complex, but one important cause appears to be the absence of a universally accepted theory of pedagogy broad enough to support the kind of sweeping change that is needed, from kindergarten to university.

Ivan Illich and Jerome Bruner have responded to this situation, each with a book that attempts to sketch a general theory as well as blueprint concrete ideas for fundamental reform. As critics, Illich and Bruner have in common only years of study and research devoted to education: Illich at the Center for Intercultural Documentation in Cuernavaca, of which he was co-founder; Bruner as founder and director of the Center of Cognitive Studies at Harvard. Their basic approaches to the problem are quite different. Illich, a former priest, champions radical alternatives to existing institutions. Bruner, a "common-sense" psychologist, urges that we improve the institutions. It is interesting, accordingly, to discover certain parallels in their vision of the future structure of education.

Deschooling Society is really a cry of rage against the "institution" school, characterized by Illich as a self-justifying monopoly that indoctrinates students with the myths of an industrialized society and leaves them dependent on prescribed values and ways of thinking. Schools, for Illich, are the paradigm of totalitarianism in modern institutions. He sees no way in which they can be reformed. He believes that schools and the tyranny they represent—certified teachers, obligatory attendance, standardization, discrimination—must be "disestablished."

As an alternative to centralized institutions, Illich envisions, in some future society, "educational webs" composed of two main structures: autonomous "skill centers" accessible to anyone who wants to learn; "reference centers" for "educators-at-large" and for the development of "educational objects." Instruction would be provided by professionals who wished to share their knowledge, or by "matching peers" with mutual interests. "This plan," Illich asserts, "could offer the masses an extraordinary opportunity: that of preserving the right of equal access to . . . learning and sharing with others what they know and believe."

Illich's vision is enormously appealing, but, as is often the case with angry writers, his prose tends to be more passionate than thoughtful. Many important questions go unanswered. How do we make the transition from our present society to the new one he envisages? How do we motivate students to attend "skill centers" and professionals to teach in them? How can we see to it that these universally accessible centers remain noninstitutionalized?

Certainly much of Illich's anger is just. We cannot be reminded often enough of the irrational consistencies and restrictions on freedom often disguised as democratic practices in our bureaucratic schools. But it is questionable that abolishing schools is the prerequisite for useful change. For better or worse, technology—which Illich condones in his utopian society—appears to be best developed and maintained in a context of institutions. On the other hand, serious social critics have suggested that the anti-human practices and myths that are the strength of current bureaucracies are inadequate to meet the needs of the forthcoming super-industrial era. They predict that the old production-line, linear institutions will evolve by necessity into more resilient, modular systems, that will require the services of people educated to think critically and independently. We are still a long way from such a system, but one aspect of the prophecy that rings true is that overbureaucraticized institutions contain the seeds of their own destruction. But it seems reasonable to regard the real challenge facing educators as neither the reformation nor the destruction of the schools but rather the creation of a humanistic base within them from which new forms can evolve organically, and assume their own appropriate contours.

Educators who attempt to humanize their classrooms usually begin by breaking down external structures that are unnecessarily restrictive. Many of their experiments, such as informal or open

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classrooms, individualized teaching, or projects which encourage active learning and creativity, have indeed proved effective. But an unfortunate byproduct of this effort is the myth that systematic learning falls into the category of rigidity and is somehow contrary to human nature.

In the related essays and lectures that Jerome Bruner has collected in *The Relevance of Education* he contests that myth by showing that structured cognitive patterns are as natural to man as any other human characteristic. He explains that man's biological limitations are so great that it was necessary for him, as a species, to cultivate the intelligence to create and control a viable environment. Unfortunately that process of cultivation is neither automatic nor swift. During his prolonged period of childhood, man needs to be protected against the bombardment of information from increasingly complex cultures. Without this help, his growth would be arrested. "Man," Bruner says, "is not a naked ape but a culture clothed human being, hopelessly ineffective without prosthesis provided by culture." The prosthesis in question is, of course, formal or informal education. It is Bruner's theory that our proper guide in developing the most appropriate pedagogy is the underlying emotional and intellective process in the human being himself.

We know something about that process through behavioral studies, especially Piaget's classical work on the developmental aspects of learning during the first two years of a child's life. Of these Bruner focuses primarily on the nature of "skill learning" and the fact that there is a graduated series of skills that must be mastered before a child can advance. Greatly simplified, the pattern of skill learning consists of: setting a goal; discovering the means appropriate to its attainment; converting that information into action; learning to measure success by comparing the objective sought with what has been attained.

According to Bruner, a skill correctly taught, whether it be as simple as learning penmanship, or as complex as learning how to think abstractly, becomes a tool which can be applied to a variety of situations. Through mastery of skills, the student acquires a sense of personal competence and, most important, independence. Thus, Bruner concludes, "the transfer of skills may be more important to education than the transfer of content."

Indeed, with regard to content, Bruner suggests that because of the limited ability of the human mind to absorb clutter, teachers should "economize" by limiting the information relayed to that which is socially and personally relevant to the student. Furthermore, "education should end its exclusive posture of neutrality and objectivity and become involved actively with problems such as racism, crime, pollution, war, marriage and family." Most schools take the opposite tack. Teachers teach from predetermined and often irrelevant curricula. Their method of presentation is usually "telling." Little attention is paid to whether or not students have mastered the skills that will enable them to absorb the information given. The result of that kind of teaching tends to be learning by rote and mimicry, dependence, and the conviction that learning is painful.

Bruner's theory of using man's nature as a guide to appropriate pedagogy provides the rational basis missing in Ivan Illich's vision of autonomous skill centers. Illich recommends that establishing such centers be postponed until the "institution" of education is destroyed. Bruner's plan is immediately applicable in the schools—even to problems as difficult as that of racial and social discrimination. Both Illich and Bruner observe that American education has systematically maintained a bottom class by limiting the amount of education available to the poor, especially the nonwhites. And educational deprivation results in a devastating sense of personal worthlessness and leaves the poor hopelessly dependent on welfare institutions.

Ivan Illich believes the educationally disadvantaged cannot be helped by relying on schools. He cites as proof the failure of many compensatory education programs. But that failure is often due to intense internal resistance to change. A great many educators who pay lip service to "social responsibility" refuse to adapt curricula to deprived students, who are forced to participate in a system of education for which they lack the prerequisite skills. Bruner believes the effects of early deprivation are remediable, but only through a mode of teaching that nurtures the capacities of the student, strengthens his confidence, and develops his independence. That is, through the mastery of skills that provide a unified base for learning.

Although "skill learning" promises much it is still only one step toward the development of a larger theory of pedagogy. A totally revised system of education must be evolved if we are to meet the tremendous social, technological and psychic changes of the present as well as those of the future. The "best system" may turn out to be very much like the educational webs predicted by Ivan Illich. But unless we begin now, in the schools, with models which will develop the capacities of each and every student, we may never find out. □

THEATRE

HAROLD CLURMAN

It is surely no secret: since 1955 at least, the New York theatre has been deteriorating. This alone should not cause alarm because the theatre has been in trouble through most of its history. But the situation today is truly alarming.

The cost of Broadway production for plays without music (a play with a small cast and one set) is upward of $75,000; for a musical, it exceeds $300,000. Operating costs are extremely high; the price of tickets ranges from $8 plus to $15 plus. A play must run a very long time to pay off the initial investment; few of them ever do. Off-Broadway production costs and ticket prices have mounted to where they were on Broadway between 1940 and 1950. The rate of unemployment for actors in the theatre is cruelly high. [See "Actors' Equity: Do You Call That a Union?" by David Weinstein, *The Nation*, September 20.] More actors are working as taxi drivers, cashiers, waiters and restaurant hostesses than in what they hoped would be their normal profession. Playwrights suffer acute depression and live in fear!

The results are to be seen in the stage fare that has been provided thus far this season: Whitman poems set to "popular" music; two one-act plays by Robert Anderson (have already closed); *The Incomparable Max*, two short plays based on Max Beerbohm vignettes (is about to close); the staged tunes of *Aint Supposed To Die a Natural Death* —which I liked—are struggling for life; an Israeli musical *To Live Another Summer, To Pass Another Winter*. Off-Broadway, *Where Has Tommy Flowers Gone?* is said to be doing well; *A Gun Play* by a new playwright, Yale Udoff, is struggling to survive.

The only Broadway hit is *Jesus Christ Superstar*, a stupendous production based on a rock recording by two Englishmen. We look forward to *Old Times*, a new play by Harold Pinter. The one sign of theatrical animation, apart from the "underground" and side-street groups, categorized as off-Off-Broadway, is the steadily increasing number of students in college theatre departments. There is still an appetite for theatre among us, but the market is bare.

The New York Times is well aware of the crisis; its regular critic is eager to help salvage the expiring patient. Wherever there is the least trace of merit, the slightest possibility of praise, he takes

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pains to emphasize it. I find this sympathetic, though it is hardly likely that his method of resuscitation will avail. On today's Broadway stage only certain types of musical comedy (*Applause, Promises, Promises*), sentimental comedies like *Butterflies Are Free* and a thriller like *Sleuth,* the plays of Neil Simon, and a very few plays by notable writers can maintain themselves. It is significant that so much that is now offered is not original theatre material but adaptations and dramatizations. These are symptoms of exhaustion.

I bring all this up as a preface to my remarks on *Unlikely Heroes: 3 Philip Roth Stories*, adapted for the stage and directed by Larry Arrick (Plymouth Theatre). I must begin with a generalization: it has never been my belief that we ought to go to the theatre only to see plays of the first magnitude. If we did, the theatre would have disappeared long ago. The critic pleased by nothing but the first rate in the theatre should ensconce himself in the library. I do not mean that when there is a dearth of truly valuable plays, the fourth and fifth rate should be greeted with the acclaim deserved by masterpieces. That is the impression many reviewers give when a pleasant performance is hailed with the rapture show folk call a "business notice." That such a notice is required to rouse people to see a play is itself evidence of a morbid condition.

Unlikely Heroes constitutes a nice evening in the theatre. The Roth stories, to begin with, are amusing, well written and intelligent; one of the three, "Eli, the Fanatic," is something more than that. Moreover, they are well acted and suitably staged. Much of Roth's writing is retained.

The first story, "The Defender of the Faith," lends itself most readily to dramatization. It is the wry tale of a GI who uses a pretended devotion to his Judaism to curry favors from a modestly upright sergeant, also Jewish. It takes the sergeant some time to discover that the GI is a wheeler-dealer who will use all means to gain the advantages of convenience and pleasure.

Roth tells the story without bitterness or wrath but with engagingly sly humor. The playlet is admirably acted by David Ackroyd—bright and crisp—as the sergeant, and by Jon Korkes—plausibly engaging, without mitigating the basic obnoxiousness of the private's character—and by all the others, with special service rendered by George Bartenieff as a chaplain.

The second story, "Epstein," is essentially a monologue. It deals with a successful manufacturer of paper bags, a man of fundamental good will and mediocre virtue, heir to the disquiet and disappointments common to men of his class and disposition. The most agonizing episode of his life is the occasion when, after his one and only deviation from marital fidelity, he develops a rash around his crotch and is suspected by his horrified family of having contracted syphilis, though in this respect he is unsmirched. We last see him in an ambulance, being transported to a hospital after a heart attack. As a stage piece "Epstein" is sustained by Lou Jacobi's direct, unforced and unsentimental delivery (in speech rather than in action) of Epstein's plight.

There is much more substance in "Eli, the Fanatic." Here Lou Jacobi, as the "headmaster" of a school for refugee Jewish children who are to be raised in orthodoxy, achieves greater dimension in characterization: a concise performance. Michael Tolan as a capable middle-class lawyer is also convincingly effective.

The theme of "Eli, the Fanatic" is the troubled conscience of the assimilated Jew who has lost virtually all sense of connection with his origins as a Jew and the fate of "his" people. When a bearded Jew in ghetto garb (wide-brimmed black felt hat and long kaftan) appears in a respectably aseptic, predominantly Protestant, small suburban community, the Jewish residents are upset. The anomalous figure disturbs their sense of security: he is a stain on the immaculate conformity of the town. He makes "Jewishness" unsightly.

As a lawyer for the Jewish contingent, Eli is sent to see Mr. Tzuref, the head of the religious school who employs the unnamed Man to do odd jobs on behalf of the institution. Eli begins by asking Tzuref, on legal grounds, to move the school away from the residential sector of town. When Tzuref refuses, and Eli suggests that the school may be allowed to remain where it is if only the Man can be made invisible by having him change his startling attire, Tzuref explains that the man possesses no other clothing, that he is entirely alone and utterly without means. More telling than all this, Tzuref reminds Eli that he himself is part of that Man's world and people, and that they are a part of him.

Eli effects a compromise: he will give the Man a suit of his own. The gift is accepted. But when Eli approaches the Man, now transfigured by the commonplace and, to him, sacrilegious dress, the latter shuns him in fear and trembling. the change of apparel has been a humiliation to him, another injury added to his lifelong suffering.

An ancient guilt wells up in Eli's soul. He dons the Man's discarded hat and coat: his friends and wife believe him struck by madness. "Recovered," Eli tearfully begs forgiveness of God, beating his breast in orthodox lamentation, and vows to resume the rite of putting on the Man's old habit one day a year to commemorate what has happened; he will never again avoid identification with his forebears, their tribulations and grief.

It is a fine concept; the story as story is a brilliant allegory. Though its meaning still remains inescapable, reaching beyond its specific ethnic framework, i becomes rather too concrete, and ther fore not altogether credible and less po nant than it should be, when it is tra lated in realistic terms to the st (David Ackroyd, who plays the n, should be provided with a proper d; it is far more important to the pl an the elaborate setting. At presen e is made to look like an extra in stock company too poor to supply quate make-up.) For all that, I rep "Eli," the Fanatic," is *something.* □

DANCE

NANCY GOLDNER

Never have I seen dance style so controlled, so refin as that of the Classical Khmer ... et of Cambodia, which appeared a... e Brooklyn Academy of Music fro... October 19 through October 24. The ... form is old; 1,400 years old the p... gram notes say. Yes, one is always a... e of time when watching the dancer except that it cannot be neatly packa... into years, even 1,400

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nem. Over the centuries, the dance form has evolved into the definitive product, and in so doing has pared the technique down to its elements. This double-edged purity is what makes the Cambodians so fascinating.

Ballet dancers gobble up space without knowing it's there. Some modern dancers have been trying to create a greater awareness that a dancer moves in something and that the something is space. When he extends part of his body he is cutting through a barrier that separates himself from what is out there. The Cambodian dancer does not contend with space at all. The extension of an arm or leg is simply a variation of the line of the total body; there is no sense that a limb is building a bridge between or cutting through something. In this sense the Cambodian and ballet dancer are alike, except that while the ballet dancer is making his body into a beautiful shape, if not form, the Cambodian is covering a lot of territory, naturalness, then at least with the grace of fish display in water.

The Cambodian dancer uses only as much space as he must. If she pivots, her feet stay close together, if she turns in a circle, the circle is only as big as her feet. She tends to sway rather than step. When she lifts her leg, the knee is bent. Her most dynamic use of space is with her arm, but the dancer will never make adjustments in her shoulders or torso so that her arm can reach more space than its actual length. The dancers do exercises to elongate their fingers, and their fingernails are noticeably long, but in most of the hand gestures the fingers are held close together. Walking, although beautifully done, is simply a way of getting the dancers on and off the stage in the religious dances. In the narrative dances walking is a dramatic device, it helps to tell the story, but it is not an intrinsic part of the choreography.

The movements themselves are small. A dancer will stand with her feet close together, turned out at the hips, one in front of the other. She will then shift her balance from the front foot to the back one and then to the front again. Or she will sway slightly from side to side. She also moves slowly, gliding from one pose to the next. And as she glides she is balanced on bent knees, so that her height barely and almost imperceptibly changes. Finally, the movements are few and prescribed. She lifts her bent leg to the back and front, never to the side. The sway is from side to side, rarely from front to back. The shifts in weight in the feet are on the forward-backward axis, rarely from side to side. As in Indian dance, the Cambodian slides her neck from side to side, but not as far or in such an exaggerated fashion. Also as in Indian dance, the hand gestures are representational but not nearly as numerous or varied. (I must qualify this by reporting that I was sitting in row H of the orchestra and could well have missed some of the subtleties, so small is the Cambodian gesture.)

What makes this dance as sophisticated as it is "primitive," as developed as it is fetal, is its self-consciousness. It is small and undynamic by choice. Once this is understood—or felt—the whole performance takes on a powerful tension. For example, the foot is always raised to the same, quite low height. The leg could easily rise several feet above the floor and sometimes it would be much easier for the dancer to lift her leg higher than 10 inches (if that is the precise height). But no, it is 10 inches—no more and no less. The sway also goes just so far—about 30 degrees—and no further. When the dancer turns her head, we do not see either full profile. She moves from semi-profile to semi-profile. That is quite enough to convey the point and is exhilarating when one catches the aesthetic of restraint that underlies the movement. For in Cambodian dance it is the decision *not* to move that is crucial; likewise, the realization that for every movement chosen, thousands have been discarded, so that each step assumes a magnitude that we might sense as we watch a master painter approach a canvas and apply the first stroke. He applies it not here, not there, but *there*.

Partly because of its restraint and precision, the Cambodian dance is the most aristocratic I have ever seen. (E. M. Forster calls his "two cheers" for democracy sensible, but I call it aristocratic.) Balance also contributes. Each gesture comes with a counter-gesture; each softens the other and makes the body a unit. The most characteristic and yet unusual feature is the hyperextended fingers. The dancer's palm is held upward and her fingers, pressed together except for the thumb, slope downward, creating an inverted arch. If the hand is thrust forward, the back leg is raised. The knee is pressed close to the standing leg while the lower part of the leg is raised upward. The toes are not pointed but flex up from the foot, thus paralleling the direction of the fingers. The mannered fingers are in this way made less bizarre, if not more natural.

Most strange and aristocratic and moving is the gaze that each dancer wears. It is a kind of smile. It is neither inward (like the Mona Lisa's) nor outward. It is not directed at any object or at the audience. It does not connote dreaminess, a trance-like condition, modesty that we associate with the Geisha dancers, or for that matter with happiness. It most nearly resembles contentment. It comes closest to another smile that also defies verbal description: that found in Etruscan sculpture. Both smiles are inspired by the human smile, but both transcend it. The Cambodian and Etruscan smiles are aristocratic in the way that Plato's "good" man is.

Control was also the compelling quality of Bella Lewitzky, who appeared with her company at the Brooklyn Academy, October 15 to 17. Miss Lewitzky emanates a sense of great strength held in check. It is well below the surface; she does not threaten to explode, but explosion is a slight possibility. Most remarkable is the fleetness with which she can change direction and the whole feel of her body. One minute a magnet holds her to the ground; the next she is weightless. Sometimes one part of her is solid mass while another part is free-floating. Her solo, *On the Brink of Time*, was a tour de force on this quality. The fleetness first took a comic form: now you see me; now you don't. At first all we saw was her hand wriggling its way from behind the wing into view. Then all of Lewitzky walked on, only to scamper right off again. After a few entrances and exits the lady came to stay. The rest of her dance was a virtuoso display of tension and relaxation, as though a bubble of energy were running around her body, giving momentary life to the muscles it met on its route. Because Lewitzky has such muscular control, her dance was rippling rather than fragmented. And arching over this constant cresting and ebbing of energy was Lewitzky's calm demeanor, mesmerizing in its way. At the conclusion of the solo, strobe lights flickered across her. Suddenly her body took on the serenity that had previously been only in her face, while the flickers of energy moved out of her body into the area around her. The solo was a beautifully developed exposition on animation. First it was localized as hyperbole in the peekaboo beginning, then it toured the whole body limb by limb, and then it seeped out of the body into the atmosphere.

Lewitzsky's choreography for her company is not as unusual as the solos she has created for herself, but then the dancers are not as responsive as she is. The best moments were when Lewitzky's special ability to lighten and darken movements was translated into swift

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changes in tempo, and so mood, for the group. *Orrenda*, for example, starts with slow, downward movements for the men. Suddenly the women lightly spring onto the men's backs and perch there. In a split second the whole tone of the work has changed. The ending of the same work slowly gathers momentum until all the dancers are spinning in a circle. No sooner has the dance finally clustered than it disperses. Each dancer breaks away from the circle and runs off the stage, as though jet-propelled out of an exploding galaxy into space. This ending was a delightful surprise. Generally, though, when it comes to surprises, Miss Lewitzky is her own best kinetic firecracker. □

TV: Archie's Hang-Ups

MYRON ROBERTS & LINCOLN HAYNES

Mr. Roberts and Mr. Haynes are both connected with California colleges, the former as a professor of English, the latter as an information officer. They are the co-authors of The Begatting of a President *(Ballantine Books and record by Orson Welles), have contributed to* L. A. Magazine *(which they co-founded in 1958), to the* Los Angeles Times *and elsewhere.*

Thirty years ago, when Hollywood reached its Goldwyn Age and Betty Grable and Dan Dailey were tap-tapping their way into our hearts, it was almost obligatory for serious writers in solemn publications to attack "the myth of the 12-year-old public mind." When television arrived to capture the mass audience, the fight fanned out from the fortress of the movie theatre to the jungle of TV, and there it has sputtered, if not quite raged, ever since. This year has seen a surprise attack by the forces of adult television with *All in the Family* and its anti-hero (he's anti-everything), Archie Bunker.

Its success has been stunning. In its first season it managed to achieve the best of both worlds—winning Emmys and wide critical acclaim while seizing the top of the Nielsen ratings. And this was a season that saw the demise of a number of other shows featuring instant relevance dished out by assorted Senators, psychiatrists, curbstone lawyers and even good old irrelevant Andy Griffith, reborn as a painfully with-it schoolmaster.

How is it that, in what we are so often told is a hopelessly racist society, a show which joyously lampoons bigotry is enjoyed, even loved, by an audience which presumably must include millions of bigots? Why, if we're as sexually inhibited and neurotic as the best-selling practitioners assure us, do we embrace a show that kids the pants off sexual taboos from homosexuality all the way to—well, heterosexuality?

("Make no mistake," says producer Norman Lear, who fenced with two networks for three years to get the series on the air; "it's sex that really hangs them up—just like it does Archie.")

Why is *All in the Family* making it when its predecessors in social satire, such as *That Was the Week That Was* or *The Smothers Brothers Comedy Hour*, either failed to win an audience or were quickly dumped by the broadcasters when they decided that people were offended? Why, for that matter, did the same network president who fired the Brothers turn around a couple of years later and buy the Family?

"The Smothers sneaked in as clean-cut, all-American boys," says producer Chris Bearde (*Andy Williams, Sonny and Cher*). "They fooled the Establishment, and they got in a lot of good digs in a light, satiric way. But after a year or two they were into straight preaching, too heavy, and they ran into trouble. Now we keep it funny first."

On the première night of *All in the Family*, producer Lear recalls, "CBS had switchboards manned with extra operators waiting for a flood of protests that never came.

"The think tanks—the executive suites here in L.A. and in New York—kept telling us we might get away with it in East and West Coast liberal circles, but not in Milwaukee, Duluth, St. Louis. Well, America was ahead of them. From the beginning, both the critics and the public were enthusiastic across the country—9 to 1 in favor."

On the other hand, he notes, liberals often complain that the series not only fails to exorcise bigotry but actually fosters it. "Did I really go into production on a half-hour situation comedy," Lear asks, "expecting it to exorcise such expressions of hostility as racism, prejudice and bigotry from the belly of mankind? I'm not a lunatic.

"But I don't think it makes bigotry more acceptable, either. What it attempts to do—and succeeds, according to much of the mail we receive—is mirror our prejudices. We're laughing while we face them, which means we're not forced to think about it now. It's not jammed down our throats. We laugh now, swallowing just the littlest bit of truth about ourselves, and it sits there for the unconscious to toss about later."

Much of the criticism has tended to fester, not in *TV Guide* or among the intellectually unanointed but in middling highbrow and liberal circles.

"The *New York Times* reviewers knocked it at first, then came around," says Lear.

One reader wrote to the *Los Angeles Times*: "Hate and prejudice cannot be stopped by showing it on television every week. I should like to see in its place 24 minutes of trees or flowers with no words to back it, or maybe a forum for young poets. . . ."

What the Trees and Flowers crowd object to is not that the series portrays hate. There is less hatred in a season of *All in the Family* than in ten minutes of the average Western or a typical talk show—or many a young poet. The real source of the unhappiness is that the show makes the point that a man, specifically Archie Bunker, can be at once a bigot and an amusing, even likable, human being.

Lear likes to point to this passage by Pamela Haynes, a black reviewer in the *Los Angeles Sentinel*: "Archie outrages the sensibilities of just about every minority group on earth. But his ranting serves an important purpose and I hope that these upset liberals or uptight viewers don't lose sight of that fact."

Archie Bunker is evidence of a hard truth about humanity: people aren't

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reasonable or logically consistent. A man may hold the most detestable views regarding blacks or Jews or Outer Mongolians, or be a pig on foreign policy and insensitive to the higher wisdom of youth, and still be a likable human being.

Like most Americans of his age and class, Archie grew up in a world where it was assumed that to be a WASP was to be automatically superior to the bulk of mankind. That is not an idea that Archie or even Americans invented. The ancient Greeks believed exactly the same thing. (They used the same word for foreigner and barbarian.) The Romans certainly believed it. The Jews and the Christians believed it. The French, Germans, Japanese, black nationalists—it is hard to think of a culture which does not begin with the premise of superiority over all others. Archie's bigotry is natural, almost universal. It is also catastrophic for mankind. But looking at trees and flowers instead of the truth will not change that truth.

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The success of *All in the Family* will not necessarily lead to a renaissance of realism on television—though there's talk of a pilot show being planned on black-white marriage, and even well-scrubbed Dick Van Dyke dips into controversy this year. But the fact that the series has been remarkably well received except by a handful on the Left and Right (the Right spots it as a Commie plot) is a healthy sign. It indicates that public sophistication has risen a notch or two above the old Loretta Young and Donna Reed shows, or the Impossible Missions Force zapping cadres of unpleasant foreigners. □

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DAVID HAMILTON

VERDI: *Don Carlo.* Montserrat Caballé, soprano; Shirley Verrett, mezzo-soprano; Placido Domingo, tenor; Sherrill Milnes, baritone; Ruggero Raimondi, bass; Giovanni Foiani, bass; Ambrosian Opera Chorus, Covent Garden Royal Opera House Orchestra. Carlo Maria Giulini, cond. Angel SDL-3774. $23.92 (four discs, stereo).

On the heels of the recent Metropolitan Opera performances, this recording's obvious virtues—thorough rehearsal, generally competent singing, and an enlivening hand at the helm—appear considerable. And of course the use of the five-act version of 1886 (adding the Fontainebleau scene, from the 1867 French score, to the 1883 revision in four acts used by the Met) is preferable, for it fills in necessary background, both dramatic and musical. It would be fascinating sometime to have a recording of the French score, and of the material composed but not ultimately used (there is a useful account of this problem in Andrew Porter's historical note in the libretto booklet), but clearly what is here recorded constitutes the most satisfactory text for standard use.

Giulini's direction, however, is somewhat disappointing, at least until the middle of the third act (the *auto-da-fé* scene, which is impressively paced), for his tendency to let tempo slacken for the comfort or vanity of the singers allows the musical progress to disintegrate at times, and the tempo relationships don't always follow Verdi's specifications, so that tension fails to accumulate over the course of a scene. Later in the opera, these matters are better controlled, and the last act is quite good indeed, but the totality falls short of Solti's achievement (London OSA-1432). Another severe drawback is the recorded sound, one of those Carlsbad Cavern affairs, swimming in resonance that obscures much vital detail; again, the London recording is measurably superior.

From the standpoint of casting, there is not much to choose between the two recordings. Caballé's Elisabetta demonstrates a superb sense of the Verdi line when she is restrained from narcissism by the conductor, but London's Tebaldi is reasonably good, better than she has sounded on any other occasion in recent years. The Ebolis (Verrett and Bumbry) are both good, the Rodrigos (Milnes and Fischer-Dieskau) both unsatisfactory for vocal reasons, although Milnes is more idiomatic in his woolly-toned way. Domingo sings with more elegance than he did at the Metropolitan, but what Bergonzi (on the Solti recording) sacrifices in sheer tonal appeal he more than makes up for in rhythmic clarity and firmness of line. A particular triumph of the London version is the famous scene between King Philip and the Grand Inquisitor, where the low-register instrumental color is more clearly recorded and the two voices (Ghiaurov and Talvela) more clearly differentiated; Giulini's singers are good, but they do not convey through timbre the essential confrontation of the scene—one of Verdi's most original, and the episode that most clearly projects the opera's extension beyond the standard Verdian framework of conspiracy and frustrated love.

Other recommended recordings:

BRITTEN: *The Rape of Lucretia.* Heather Harper, soprano; Janet Baker, mezzo-soprano; Peter Pears, tenor; Benjamin Luxon, baritone; John Shirley-Quirk, bass; English Chamber Orchestra. Benjamin Britten, cond. London OSA-1288. $11.96 (two discs, stereo).

PAGANINI: Caprices, Op. 1. Paul Zukofsky, violin. Vanguard VCS-10093/4. $9.96 (two discs, stereo).

RAVEL: *Rapsodie Espagnole; Alborado del Gracioso; Daphnis et Chloé*—Suite No. 2; *Pavane.* Cleveland Orchestra and Chorus. Pierre Boulez, cond. Columbia M-30651. $5.98 (stereo).

WEBER: *Oberon.* Birgit Nilsson, soprano; Julia Hamari, mezzo-soprano; Placido Domingo, tenor; Hermann Prey, baritone; Bavarian Radio Chorus and Orchestra. Rafael Kubelik, cond. Deutsche Grammophon 2709-035. $20.94 (three discs, stereo).

WOLF: Songs. Elisabeth Schwartzkopf, soprano; Wilhelm Furtwängler, piano. Seraphim 60179. $2.98 (mono; recorded 1953 at concert). □

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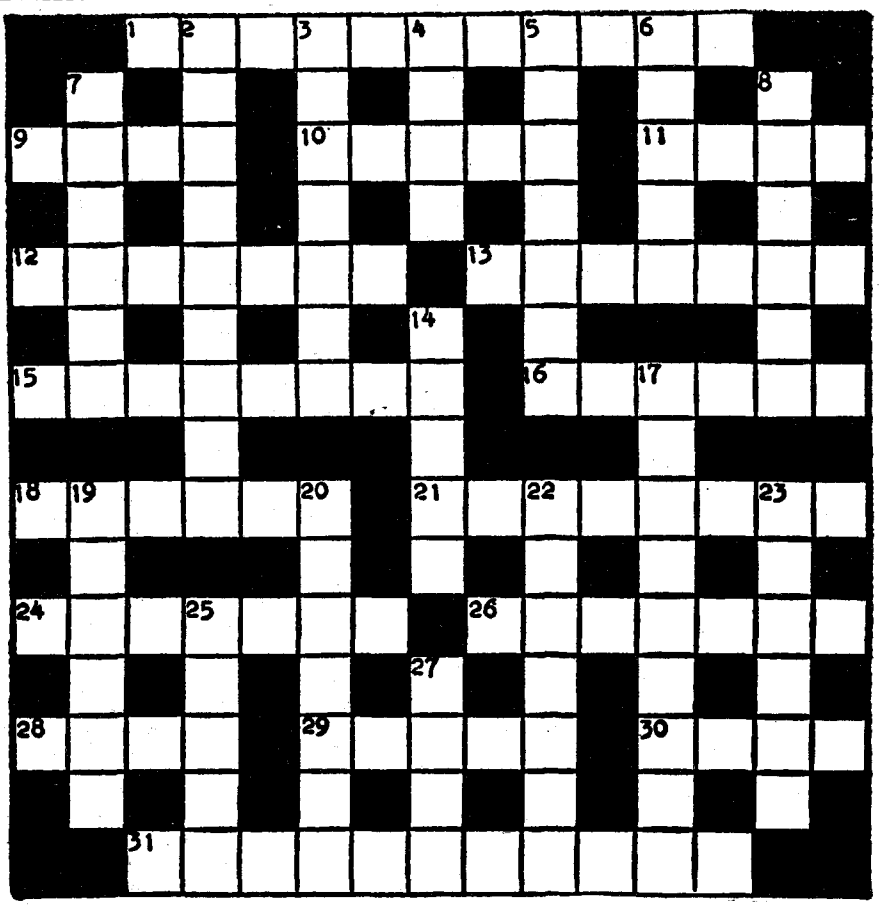
Crossword Puzzle No. 1416

FRANK W. LEWIS



ACROSS

1 and 10 across Perhaps an unsolicited comment on a barge-mule, from a superior vantage point. (11,5)
9 The wife is supposed to be 17 down to this. (4)
10 See 1 across
11 Something to turn on when a 10 exists. (4)
12 Timekeeper scarcely employable on the evening shift. (7)
13 We ask for those of the helper to be good where many people work. (7)
15 A small apartment indeed, being rather airless. (8)
16 Circle around at something like a standard. (6)
18 The part of the grass that gets cut by them? (6)
21 Though illness might, if you have been, feel different now. (8)
24 Proper behavior takes a short time, with nothing but spirit to go on. (7)
26 Enraged by an outburst of it? (7)
28 Levy placed on one to obtain transportation. (4)
29, 5 down and 17 Stand in for the gambler, and improve your well-being. (4,1,4,3, 3,6)
30 See 8 down
31 They might give a 16 for pipe users. (5,6)

DOWN

2 Would the followers of Elmer in the cartoons, getting rather confused? (9)
3 Concentrated preparation. (7)
4 Such as A and O, but not the Spanish that some take. (4)
5 See 29 across
6 Took a picture of an animal in it? (5)
7 The essential quality of life in an unregenerate state. (6)
8 and 30 across Some of the digits pointed out? Far from it! (6-4)
14 Reptile found in summer possibly. (5)
17 See 29 across
19 Get the drift of the method of Grant's opponent? (6)
20 Go back and forth thus, let out of it. (7)
22 Sweet and loving little creature. (7)
23 Sounds as though such music might come first. (6)
25 Board of inquiry? (5)
27 Take the top off. (4)

SOLUTION TO PUZZLE NO. 1415

ACROSS: 1 and 27 How Green Was My Valley; 9 Shackles; 10 Choral; 11 Peruses; 12 Student; 14 Assist; 15 Treasure; 17 and 7 Spinning wheels; 20 Cackle; 22 Ascribe; 24 Driving; 26 Gandhi; 28 Preferences.

DOWN: 3 Gilbert; 4 and 23 Easy Rider; 5 Necktie; 6 and 2 A word of caution; 8 Banner; 13 Stage; 16 Sackville; 18 Postal; 19 In brief; 20 Caravan; 21 Landed; 25 Omar.

Readers are invited to send for a free copy of Mr. Lewis' "ground rules." Address Puzzle Department, *The Nation*, 333 Sixth Avenue, New York, N.Y. 10014.

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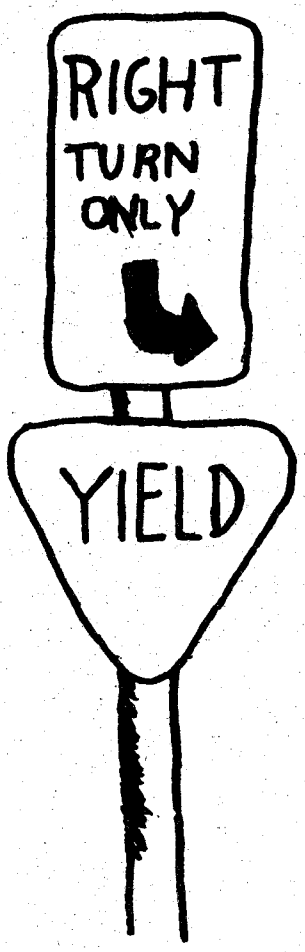

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